

STATE AFFAIRS — C.S.H.B. 977

SUBCOMMITTEE ON ELECTIONS AND ETHICS — C.S.H.B. 74

STATE AFFAIRS — H.B. 1895, H.B. 1896, H.B. 641, H.B. 1843,  
H.B. 859, H.B. 2835

**FILED WITH SECRETARY OF STATE**

(May 20, 1993)

**S.J.R. 19**

**SEVENTY-THIRD DAY**

(Saturday, May 22, 1993)

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Sims.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Our heavenly Father, this morning we pray for these who come together to continue their work these remaining hours of this 73rd Legislature. Much is yet to be decided and we pray You will grant to each participant patience and fairness as they work to achieve that which they are committed to accomplish for the children, the parents, and the teachers of Texas. This is our prayer and it is in Your name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**LEAVE OF ABSENCE**

On motion of Senator Rosson, Senator Sims was granted leave of absence for today on account of important business.

**HOUSE BILLS ON FIRST READING**

The following bills received from the House were read first time and referred to the committees indicated:

**H.B. 2500** to Committee on Intergovernmental Relations.

**H.B. 2817** to Committee on Natural Resources.

**H.B. 2866** to Committee on Natural Resources.

**BILLS SIGNED**

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

<b>S.B. 87</b>	<b>S.B. 701</b>
<b>S.B. 387</b>	<b>S.B. 877</b>
<b>S.B. 485</b>	<b>S.B. 936</b>
<b>S.B. 640</b>	<b>S.B. 953</b>

**CONFERENCE COMMITTEE ON HOUSE BILL 259**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **H.B. 259** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **H.B. 259** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators West, Chair; Ellis, Rosson, Luna, and Shapiro.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 22, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 26**, Relating to insurance premium discounts for vehicles with antitheft devices. (As amended)

**S.B. 28**, Relating to procedural and fire safety requirements relating to long-term care facilities licensed by the Texas Department of Health. (As substituted)

**S.B. 73**, Relating to the authority of a telecommunications utility to offer caller identification service. (As amended)

**S.B. 79**, Relating to the requirement that the state develop a system of selective contracting with health care providers for the provision of certain services to Medicaid recipients. (As amended)

**S.B. 86**, Relating to the licensing of hospitals by the Texas Department of Health including the provision and appropriation of fees and the assessment of civil penalties and administrative penalties.

**S.B. 89**, Relating to establishing a birth defects registry. (As amended)

**S.B. 127**, Relating to periodic reports concerning state trust funds. (As amended)

**S.B. 129**, Relating to reports required to be adopted by public retirement systems and reports to be submitted to the State Pension Review Board.

**S.B. 142**, Relating to authorizing public junior colleges to charge an endowment fee and to establish an endowment fund. (As substituted)

**S.B. 160**, Relating to the provision of mental health and rehabilitative services. (As amended)

**S.B. 170**, Relating to swimming pool enclosures. (As amended)

**S.B. 184**, Relating to the regulation of certain air transfer vehicles and staff as emergency medical services vehicles.

**S.B. 208**, Relating to the offense of insurance claim fraud; providing a criminal penalty. (As amended)

**S.B. 209**, Relating to the crime victims compensation fund; providing civil and administrative penalties.

**S.B. 213**, Relating to model safe school checklists.

**S.B. 218**, Relating to loan repayment assistance for certain family practice physicians. (As amended)

**S.B. 236**, Relating to guardianships for incapacitated persons; providing a penalty. (As amended)

**S.B. 332**, Relating to consent for medical treatment by surrogate decision-makers on behalf of incapacitated or comatose patients. (As amended)

**S.B. 335**, Relating to student union fees at East Texas State University.

**S.B. 346**, Relating to changing the name of the Texas College of Osteopathic Medicine to the University of North Texas Health Science Center at Fort Worth.

**S.B. 383**, Relating to the existence, composition, and expenses of state agency advisory committees. (As substituted and amended)

**S.B. 418**, Relating to the enforcement of certain employee claims for payment of wages.

**S.B. 427**, Relating to the duty of nonprofit, tax-exempt hospitals to provide charity care. (As amended)

**S.B. 450**, Relating to authorized investment of the state and certain units of local government.

**S.B. 493**, Relating to competitive bidding by school districts.

**S.B. 498**, Relating to continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties. (As substituted and amended)

**S.B. 521**, Relating to the requirement for a muzzleloader hunting stamp.

**S.B. 530**, Relating to the creation of metropolitan rapid transit authorities. (As substituted)

**S.B. 536**, Relating to disclosure of information by certain applicants for employment in residential dwelling projects; providing criminal penalties.

**S.B. 558**, Relating to food labeling requirements under the Texas Food, Drug, and Cosmetic Act.

**S.B. 560**, Relating to correction of a reference in law to the name of the former United States Bureau of Animal Industry.

**S.B. 561**, Relating to licensing exemptions for wholesale distribution of prescription drugs.

**S.B. 564**, Relating to the licensing of wholesale device distributors under the Texas Food, Drug, and Cosmetic Act; providing civil and administrative penalties.

**S.B. 586**, Relating to the authority of the Harris County Flood Control District to provide for or participate in the development, operation, and maintenance of certain recreational and environmental improvements in connection with flood control facilities and projects.

**S.B. 587**, Relating to the authority of the Harris County Flood Control District to engage in wetlands mitigation programs.

**S.B. 588**, Relating to the designation of responsibility for the transporting of juvenile offenders.

**S.B. 667**, Relating to criminal law magistrates in Travis County.

**S.B. 672**, Relating to the Texas Council on Alzheimer's Disease and Related Disorders.

**S.B. 729**, Relating to designation of the Texas Agricultural Experiment Station as administrator of federal-state census cooperative programs.

**S.B. 738**, Relating to the safe operation of motorcycles on highways. (As amended)

**S.B. 749**, Relating to the fines and costs by a defendant convicted in a municipal court.

**S.B. 771**, Relating to medical records 100 years or older.

**S.B. 781**, Relating to prohibiting employment discrimination against deputy sheriffs in certain counties for refusing to take a polygraph examination. (As amended)

**S.B. 784**, Relating to procedures for certain employment matters concerning sheriff's department employees of certain counties.

**S.B. 807**, Relating to the establishment and financing of a school-community guidance center.

**S.B. 817**, Relating to the retirement system for fire fighters and police officers in certain municipalities.

**S.B. 831**, Relating to guardian bonds and amounts expended for education and maintenance.

**S.B. 835**, Relating to the posting of telephone numbers and notices on pay telephones; providing a penalty. (As amended)

**S.B. 866**, Relating to the use of abandoned motor vehicles by police departments in certain counties. (As substituted)

**S.B. 965**, Relating to the authority of the Upper Guadalupe River Authority to appropriate state water for recharging certain underground fresh water bearing sands and aquifers.

**S.B. 971**, Relating to the designation of wildlife management areas and to the issuance of wildlife management association area hunting lease licenses.

**S.B. 976**, Relating to authorizing private persons to inspect and test weights and measures; providing a criminal penalty.

**S.B. 981**, Relating to the approval of certain laboratories by the Texas Department of Health.

**S.B. 1015**, Relating to the time for requiring a personal representative to close an estate. (As substituted)

**S.B. 1029**, Relating to the review and approval of certain permits by the state, a municipality, and other local governmental entities. (As substituted and amended)

**S.B. 1042**, Relating to the regulation of on-site sewage disposal systems; providing civil and administrative penalties. (As substituted)

**S.B. 1043**, Relating to the regulation of radioactive source material recovery, processing, and disposal activities and establishing and appropriating fees. (As amended)

**S.B. 1073**, Relating to the time of operation of water skis, aquaplanes and similar devices.

**S.B. 1074**, Relating to lights and sound-producing devices on a vessel or motorboat.

**S.B. 1089**, Relating to the farm and ranch loan security fund. (As amended)

**S.B. 1093**, Relating to authorization for a county to create a county utility system board to operate and manage certain utility systems.

**S.B. 1132**, Relating to payment of death benefits to certain peace officers of the state of Texas. (As amended)

**S.B. 1140**, Relating to the pooling of sick leave for county employees. (As substituted)

**S.B. 1142**, Relating to surrogate decision making for certain clients of an intermediate care facility serving persons with mental retardation or related conditions.

**S.B. 1169**, Relating to the contracting for, and establishment and continuance of, certain retirement programs for the benefit of employees of municipal hospital authorities.

**S.B. 1181**, Relating to the powers and duties of, and systems and programs under the Employees Retirement System of Texas. (As substituted and amended)

**S.B. 1196**, Relating to reporting procedures under Title 15, Election Code.

**S.B. 1251**, Relating to the Texas Unemployment Compensation Act; defining temporary help firm and temporary employee.

**S.B. 1255**, Relating to a deadline for teacher resignation from a term contract without penalty.

**S.B. 1321**, Relating to the admission and enrollment of certain students in public institutions of higher education. (As amended)

**S.B. 1326**, Relating to the creation, administration, powers, and authority of the Chambers County Improvement District No. 1. (As substituted)

**S.B. 1328**, Relating to jurisdiction, operation, and administration of certain county courts in Denton County.

**S.B. 1340**, Relating to the use of electronic transfer methods for unemployment compensation insurance purposes.

**S.B. 1379**, Relating to the Montgomery County Hospital District.

**S.B. 1425**, Relating to the regulation of marriage and family therapists and to the continuation and operation of the Texas State Board of Examiners of Marriage and Family Therapists; providing penalties. (As amended)

**S.B. 1426**, Relating to the regulation of social workers and to the creation of a new state board to replace the Council for Social Work Certification. (As substituted and amended)

**S.B. 1445**, Relating to the establishment of fiscal years in certain municipalities.

**S.C.R. 83**, Commending Little Joe Hernandez for his sincere endeavors on behalf of our youth and expressing appreciation to him for the time he generously devotes to the cause of education.

**S.C.R. 92**, Paying tribute to the life of the Honorable Carlos C. Ashley, Sr.

**S.J.R. 13**, Proposing a constitutional amendment to add the Texas State Technical College System to certain constitutionally dedicated funding for public institutions of higher education. (As amended)

**S.J.R. 31**, Proposing a constitutional amendment relating to local public retirement systems.

**S.J.R. 44**, Proposing a constitutional amendment providing for the issuance of general obligation bonds for the support of the Texas agricultural fund. (As substituted and amended)

**S.J.R. 49**, Proposing a constitutional amendment prohibiting a personal income tax without voter approval and dedicating the proceeds of the tax to education and property tax relief. (As amended)

**H.C.R. 142**, Honoring Van Cliburn for his outstanding musical career and for the many contributions he has made to music education.

**H.B. 2500**, Relating to the powers, duties, and expansion of the City of Amarillo Hospital District; authorizing the creation of public debt.

**H.B. 2817**, Relating to the creation, administration, powers, duties, operation, and financing of the Presidio County Underground Water Conservation District.

**H.B. 2866**, Relating to the creation, administration, powers, duties, operation, and financing of the Jeff Davis County Underground Water Conservation District.

The House has granted the request of the Senate for the appointment of a conference committee on S.B. 7. The House conferees are: Representatives Linebarger, Chair; Sadler, Ogden, Hernandez, and Stiles.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### SENATE BILL 441 WITH HOUSE AMENDMENTS

Senator Brown called S.B. 441 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Committee Amendment No. 1

Amend S.B. 441, Section 47.0111 by striking the entire section and inserting the following:

"Section 47.0111. PURCHASE OF AQUATIC PRODUCTS BY RETAIL FISH DEALERS. No retail fish dealer may purchase for resale or receive for sale, barter, exchange, or any other commercial purposes any aquatic products from any person or entity in this state unless he purchases the product from the holder of:

(1) a wholesale fish dealer's license;

(2) a general commercial fisherman's license when the retail fish dealer has given written notification to the Executive Director of the department or his designee of the dealer's intent to purchase aquatic products from the holder of a general commercial fisherman's license; or

(3) a fish farmer's license."

**Amendment No. 2**

Amend S.B. 441 as follows:

(1) On page 1, between lines 3 and 4, add a new Section 1 of the bill to read as follows and renumber subsequent sections of the bill appropriately:

SECTION 1. Subchapter A, Chapter 46, Parks and Wildlife Code, is amended by adding Section 46.0045 to read as follows:

Sec. 46.0045. TAG FEES. The commission by rule may establish fees for initial and duplicate tags issued under this subchapter and for issuance or collection fees for license deputies issuing the tags.

(2) On page 1, lines 13-14, strike "authorized by general law and set by the commission" and substitute "set by the commission under Section 46.0045".

(3) On page 3, lines 4-5, strike the sentence that begins after the period in line 4.

The amendments were read.

Senator Brown moved to concur in the House amendments to S.B. 441.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

**SENATE CONCURRENT RESOLUTION 74  
ON SECOND READING**

On motion of Senator Leedom and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

**S.C.R. 74**, Authorizing the erection of a monument in the State Cemetery in memory of Captain John J. Grumbles at no cost to the state.

The resolution was read second time and was adopted by a viva voce vote.

(Senator Harris of Dallas in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2537 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 2537**, Relating to the development and use of land over a closed municipal solid waste landfill unit; providing civil and criminal penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2537 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2537** be placed on its third reading and final passage.



The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### **SENATE BILL 606 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 606**, Relating to the liability of certain transportation entities providing public transportation.

The bill was read second time.

Senator Patterson offered the following amendment to the bill:

Amend **S.B. 606** by striking all below the enacting clause and substitute in lieu thereof the following:

**SECTION 1.** Article 6259(1), Vernon's Texas Civil Code, is amended by adding Subsection (d) to read as follows:

(d) If a company is incorporated under Subsection (b) of this Article or under Article 2.01c, Texas Business Corporation Act, and the company provides excursion services between two contiguous counties, with one county having a population in excess of 1.5 million people, and the second county bordering the Gulf of Mexico; then the limitation of liability for the excursion provider, together with any person or entity providing equipment, property, or services to such excursion provider, shall be \$5,000,000 per year if such excursion provider has filed with the Texas Railroad Commission a certificate of insurance showing that it is the insured under a liability policy with aggregate policy limits of \$5,000,000 for such year.

**SECTION 2.** The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law in effect at the time the action accrued and the former law is continued in effect for that purpose.

**SECTION 3. Purpose.** The past operation of an excursion railroad service between Houston and Galveston has demonstrated an important contribution to tourism and to the economic development of the region, and the continued operation of such an excursion service will further promote the economic vitality of the region.

**SECTION 4.** This Act takes effect September 1, 1993 and expires August 1, 1997.

**SECTION 5.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Patterson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

#### **SENATE BILL 606 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 606** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1969 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1969**, Relating to motor vehicle registrations and inspections; providing penalties.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Amend **C.S.H.B. 1969** as follows:

**SECTION 3**, Subsection (j)(2)(c), after "administering this subsection and" strike "Subsection (i)" and substitute "Subsections (a) and (i)".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1969 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 1969** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 2042 ON SECOND READING**

On motion of Senator Henderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2042**, Relating to a state agency's modification of its findings or decision in a contested case while the case is on appeal to the courts.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2042 ON THIRD READING**

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2042** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **HOUSE BILL 2052 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2052**, Relating to licensing for the sale and purchase of mussels and clams; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2052 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2052** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 1212 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1212**, Relating to the creation of state limited banking associations.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **RECORD OF VOTE**

Senator Rosson asked to be recorded as voting "Present-not voting" on the passage of the bill to third reading.

(President in Chair)

**HOUSE BILL 1212 ON THIRD READING**

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1212** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Rosson.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Rosson asked to be recorded as "Present-not voting" on the final passage of the bill.

**HOUSE BILL 2429 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2429**, Relating to consideration of supplemental environmental projects in determining the amount of certain administrative penalties under the Water Code.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2429 ON THIRD READING**

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2429** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 2218 ON SECOND READING**

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2218**, Relating to the conduct of certain business or commercial transactions.

The bill was read second time and was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Haley asked to be recorded as "Nay" on the passage of the bill to third reading.

**HOUSE BILL 2218 ON THIRD READING**

Senator Parker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2218** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Haley.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**HOUSE BILL 2103 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2103**, Relating to contracts with landowners within industrial districts located in the extraterritorial jurisdiction of a municipality.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2103 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2103** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

(Senator Parker in Chair)

**HOUSE BILL 2723 ON SECOND READING**

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2723**, Relating to tax and regulatory relief as incentives for the production of certain gas that is difficult or expensive to produce and relating to a reduced oil production tax rate for oil from certain enhanced recovery projects.

The bill was read second time.

Senator Harris of Dallas offered the following committee amendment to the bill:

Amend H.B. 2723 as follows:

1. Add a new SECTION 3 to read as follows:

SECTION 3. Section 86.091, Natural Resources Code, is amended by adding the following: "Any natural gas well which produces high cost natural gas shall be assigned an allowable equal to its deliverability."

2. Renumber subsequent sections accordingly.

The committee amendment was read.

On motion of Senator Harris of Dallas, the committee amendment was tabled by a viva voce vote.

The bill was passed to third reading by a viva voce vote.

#### RECORD OF VOTES

Senators Moncrief and Montford asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

#### HOUSE BILL 2723 ON THIRD READING

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 2723 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0, Present-not voting 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Present-not voting: Moncrief, Montford.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### RECORD OF VOTES

Senators Moncrief and Montford asked to be recorded as "Present-not voting" on the final passage of the bill.

(President in Chair)

#### HOUSE BILL 2511 ON SECOND READING

On motion of Senator Henderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2511, Relating to administrative hearings and appeals.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Amend Senate committee report of H.B. 2511 by striking the last sentence in SECTION 1, beginning on line 25 of page 1 with the words With respect to persons.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Henderson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2511 ON THIRD READING**

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2511** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 2512 ON SECOND READING**

On motion of Senator Henderson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2512**, Relating to continued operation under a license after judicial review of a contested case.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2512 ON THIRD READING**

Senator Henderson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2512** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **BILLS AND RESOLUTION SIGNED**

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

<b>H.B. 126</b>	<b>H.B. 1679</b>
<b>H.B. 361</b>	<b>H.B. 1702</b>
<b>H.B. 606</b>	<b>H.B. 1773</b>
<b>H.B. 637</b>	<b>H.B. 1987</b>
<b>H.B. 710</b>	<b>H.B. 2194</b>
<b>H.B. 891</b>	<b>H.B. 2446</b>
<b>H.B. 1056</b>	<b>H.B. 2637</b>
<b>H.B. 1220</b>	<b>H.B. 2825</b>
<b>H.B. 1264</b>	<b>H.C.R. 72</b>
<b>H.B. 1595</b>	

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2180 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 2180**, Relating to the regulation of the practice of registered nursing and to the continuation of the Board of Nurse Examiners; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Haley asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2180 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2180** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Haley.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Haley asked to be recorded as voting "Nay" on the final passage of the bill.

**HOUSE BILL 1657 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1657**, Relating to the dismantling of a warning signal at a railroad crossing.

The bill was read second time.

Senator Moncrief offered the following committee amendment to the bill:

Amend **C.S.H.B. 1657** as follows:

(1) In SECTION 2, strike lines 17 to 24 on page 1 and lines 1 to 5 on page 2 and substitute the following:

(a) A person may not dismantle a warning signal at a grade crossing on an active rail line, as defined by the department by rule, if the cost of the warning signal was originally paid either entirely or partly from public funds unless the person:



(1) obtains a permit from the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing; and

(2) pays to the governmental entity that maintains the road or highway that intersects the rail line at the grade crossing an amount equal to the present salvage value of the warning signal, as determined by the governmental entity under applicable law.

(b) The governmental entity shall grant the permit if:

(1) proper payment is received; and

(2) the entity finds that removal of the warning signal will not adversely affect public safety.

(2) Add new SECTION 3 to read as follows:

SECTION 3. A person who violates any provision of this Act commits an offense. An offense under this Act is a Class C misdemeanor.

(3) Renumber subsequent sections accordingly.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1657 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1657 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### **GUESTS PRESENTED**

Senator West was recognized and introduced to the Senate a group of students and their teacher from Pearl C. Anderson Learning Center Lawyer Program.

The Senate welcomed its guests.

(Senator Harris of Dallas in Chair)

(President in Chair)

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 977 ON SECOND READING**

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 977**, Relating to the Law Enforcement Management Institute.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 977 ON THIRD READING**

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 977 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

(Senator Leedom in Chair)

**HOUSE BILL 2740 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2740**, Relating to the service area for operation of a municipal drainage system and collection of drainage charges.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

**Committee Amendment**

Amend H.B. 2740 as follows:

On page 2, line 3, between "million" and "may" add the following: "as of the 1990 Federal Census".

On page 2, line 20, delete "(2)".

The committee amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment**

Amend H.B. 2740 by adding an appropriately numbered section, amending Section 402.044(1), Local Government Code, as follows:

(1)(a) Except as provided in Section 402.044(1)(b), "benefitted property" means a lot or tract to which drainage service is made available under this subchapter and receives water, wastewater, or electric utility service from the municipality having jurisdiction to adopt this subchapter and declare the drainage of the municipality to be a public utility.

(b) In a municipality with a council-manager form of government, having a population of 1,000,000 or more and located totally or in part within a county having a population of 1,500,000 or more, "benefitted property" means a lot or tract located within the service area which regularly drains into the storm water drainage system of the municipality having jurisdiction to adopt this subchapter and declare the drainage of the municipality to be a public utility.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2740 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2740** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **GUEST PRESENTED**

Senator Barrientos was recognized and introduced to the Senate Roderick Tanner, a resident of the Water Bend apartment complex in Austin, who had to evacuate his apartment that had been built on a closed municipal solid waste facility.

The Senate welcomed Mr. Tanner.

#### **HOUSE BILL 2049 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2049**, Relating to the effective administration of air quality permitting programs, including compliance with federal Clean Air Act requirements.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Amend **H.B. 2049** by striking Section 30, and substituting the following sections, appropriately numbered:

**SECTION 30.** (a) Except as provided by Subsection (b) of this section, this Act takes immediate effect.

(b) Section 26 of this Act takes effect September 1, 1993.

**SECTION 31.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2049 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2049** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **HOUSE BILL 610 ON SECOND READING**

On motion of Senator Harris of Tarrant and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 610**, Relating to registration and continuing education requirements for tax assessor-collectors.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **RECORD OF VOTE**

Senator Haley asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **HOUSE BILL 610 ON THIRD READING**

Senator Harris of Tarrant moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 610** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Haley.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 680 ON SECOND READING**

On motion of Senator Turner and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 680**, Relating to the application of the professional prosecutors law to certain district and county attorneys.

The bill was read second time.

Senator Turner offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend C.S.H.B. 680 as follows:

(1) Insert the following appropriately numbered section of the bill to read as follows:

SECTION \_\_\_\_ Section 43.105, Government Code, is amended to read as follows:

Sec. 43.105. 9TH JUDICIAL DISTRICT. (a) The voters of Montgomery County ~~[and Walter counties]~~ elect a district attorney for the 9th Judicial District who represents the state in that district court only in that county ~~[those counties]~~. The district attorney also acts as district attorney for the Second 9th Judicial District in Montgomery County.

(b) The district attorney, with the approval of the Commissioners Court ~~[commissioners court]~~ of Montgomery County ~~[one or more of the counties comprising the district]~~, may appoint the assistant district attorneys, investigators, secretaries, and other employees necessary to carry out the duties of the office of district attorney.

(c) An investigator appointed by the district attorney is not required to be a licensed attorney.

(d) The salary of each employee of the district attorney is fixed by the Commissioners Court ~~[commissioners courts]~~ of Montgomery County ~~[the counties comprising the district]~~. The district attorney, assistant district attorneys, and investigators employed by the district attorney may be allowed the actual and necessary travel expenses incident to carrying out the duties of the district attorney, subject to the approval of the district attorney. This subsection does not apply to the portion of compensation or travel expenses paid by the state to the district attorney or his employees.

(e) ~~[The salaries and expenses paid by the counties comprising the district shall be paid in proportion to the population of each county, except as otherwise provided by Subsection (f).]~~

~~[(f) The district attorney may assign employees to a specific county or to specific counties of the district. The commissioners court of a county to which an employee is assigned may, in its discretion, pay a greater share of the salary or expenses of the employee than the proportionate share provided by Subsection (c). To the extent that a commissioners court pays a greater share of an employee's salary or expenses than that provided by Subsection (c), the counties to which the employee is not assigned are relieved of their proportionate share of the salary or expenses.]~~

~~[(g)]~~ The salary and expenses of the employees of the district attorney must be paid by the ~~[each]~~ county at the regular pay period of the county from the officers' salary fund of the county, the general fund of the county, or both, at the discretion of the commissioners court.

~~[(f)]~~ ~~[(h)]~~ The compensation paid by the ~~[a]~~ county to an employee of the district attorney or set for a position on the staff of the district attorney may not be less than the compensation paid by the county to the person or set for the position on June 14, 1973.

~~(g) [(†)]~~ The commissioners court ~~[of a county in the district]~~ may accept gifts and grants from an individual, partnership, corporation, trust, foundation, association, or political subdivision to finance adequate and effective prosecution, crime prevention, or rehabilitation programs in the county or district approved and administered by the district attorney.

SECTION \_\_\_\_ Section 44.001, Government Code, is amended to read as follows:

Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Dallas, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum.

SECTION \_\_\_\_ Subchapter B, Chapter 44, Government Code, is amended by adding Section 44.337 to read as follows:

Sec. 44.337. WALLER COUNTY. (a) The criminal district attorney of Waller County must have been a practicing attorney in this state for at least three years.

(b) The criminal district attorney has all the powers, duties, and privileges in Waller County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney shall, with the approval of the commissioners court, appoint an assistant district attorney or attorneys and other personnel necessary to the proper performance of the district attorney's duties. The commissioners court shall pay the salaries of the staff and necessary operating expenses of the office from county funds.

(e) The criminal district attorney or the Commissioners Court of Waller County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim's assistance programs in Waller, Orange, Red River, Robertson, Rusk, Terry, and Willacy.

SECTION \_\_\_\_ The office of county attorney in Waller County is abolished, effective upon the appointment of the criminal district attorney by the governor.

SECTION \_\_\_\_ The governor shall appoint, with the advice and consent of the senate, a criminal district attorney of Waller County who holds office until the next general election.

(2) In Section 2 of the bill, Sec. 46.002(2), Government Code, between "Walker," and "Wichita," insert "Waller."

The amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend C.S.H.B. 680, page 1, line 47, by adding the 23rd, after the "22nd,"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Turner and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 680 ON THIRD READING**

Senator Turner moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 680 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 560 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 560**, Relating to the payment of certain laborers, workers, and mechanics under public works contracts.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Amend C.S.H.B. 560 as follows:

(1) In SECTION 1, Sec. 2(a), add the following after the language "Act":

"To ascertain the general prevailing wage rate, the public body shall either conduct a survey to determine the prevailing wage based upon the wages received by classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, county or other political subdivision of the state in which the work is to be performed, or adopt the prevailing wage rate as determined by the U.S. Department of Labor in accordance with the Davis-Bacon Act, if the survey on which the Davis-Bacon rate was founded was conducted within three years prior to the bidding of the project."

(2) In SECTION 1, Sec. 2(b), insert the following between the words "mechanic" and "is":

"employed, for each calendar day, or portion thereof, such laborer, workman or mechanic"

(3) In SECTION 1, Sec. 2(d), delete the language "If the public body, the contractor or subcontractor," and replace with the following:

"If the contractor or subcontractor"

(4) In SECTION 1, Sec. 2(d), add the following after the language "jurisdiction."

"The public body is not a party in the arbitration."

(5) In SECTION 1, Sec. 2(e), add the following after the language "frivolous."

"If the arbitrator does not find that the claim is frivolous and does not make an award to the laborer, workman, or mechanic, costs will be shared equally by the parties."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### COMMITTEE SUBSTITUTE HOUSE BILL 560 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 560 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

#### HOUSE BILL 616 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 616**, Relating to the exemption of certain psychologists from career counseling services requirements.

The bill was read second time and was passed to third reading by a viva voce vote.

#### HOUSE BILL 616 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 616** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

#### MESSAGE FROM THE HOUSE

House Chamber  
May 22, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:



The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 274**. The House conferees are: Representatives McDonald, Chair; Delisi, Hernandez, McCall, and Chisum.

The House has refused to concur in Senate amendments to **H.B. 393** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Linebarger, Chair; Danburg, Delisi, Delco, and Romo.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 426**. The House conferees are: Representatives Cuellar of Hidalgo, Chair; Moreno, Rangel, Hunter of Taylor, and Duncan.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 674**. The House conferees are: Representatives Berlanga, Chair; Cain, Coleman, Maxey, and Glaze.

The House has refused to concur in Senate amendments to **H.B. 724** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Goodman, Chair; Thompson of Harris, Schechter, Hartnett, and Cook.

The House has refused to concur in Senate amendments to **H.B. 1113** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Rudd, Chair; Wolens, Brimer, Duncan, and Dutton.

The House has refused to concur in Senate amendments to **H.B. 1200** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Thompson of Harris, Chair; Schechter, Hartnett, Hilbert, and Zbrank.

The House has granted the request of the Senate for the appointment of a conference committee on **S.B. 1434**. The House conferees are: Representatives Uher, Chair; Berlanga, Clemons, Hirschi, and Coleman.

The House has refused to concur in Senate amendments to **H.B. 2116** and has requested the appointment of a conference committee to consider the differences between the two Houses. The House conferees are: Representatives Yarbrough, Chair; Campbell, Hamric, Gutierrez, and Bosse.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### HOUSE BILL 923 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 923**, Relating to statewide energy policy and research.

The bill was read second time.

Senator Montford offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **H.B. 923** on page 3, lines 9-10 by striking all language in Subsection (a) and substituting in lieu thereof the following:

(a) Appointed members serve for four-year terms. The initial appointees serve until February 1, 1999, and subsequent terms expire on February 1 of every fourth year thereafter.

The committee amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **H.B. 923** on page 5, line 6-7 by striking all language in Subdivision (1) and substituting in lieu thereof the following:

(1) a representative from Texas Tech University to be designated by the president of the university;

The committee amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **H.B. 923** in SECTION 3.07, in Subdivision (7) (page 9, line 8, engrossed version), between "with" and "private", by inserting "the federal government or".

The committee amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **H.B. 923** on page 3, by adding the following new Subdivision (4) between lines 16 and 17, and renumbering subsequent subdivisions accordingly:

(4) a representative of industrial energy consumers;

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 923 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 923** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 687 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 687**, Relating to the disposal of certain records by commissioners courts.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 687 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 687** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1345 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1345**, Relating to the licensing of adult day-care facilities; providing a criminal penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1345 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1345** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

**HOUSE BILL 1431 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1431**, Relating to the Hazard Communication Act, the Manufacturing Facility Community Right-to-Know Act, the Public Employer Community Right-to-Know Act, and the Nonmanufacturing Facilities Community Right-to-Know Act; providing for the collection of fees; providing administrative, civil, and criminal penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1431 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1431** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Sims.

The bill was read third time and was passed by a viva voce vote.

**RECESS**

On motion of Senator Truan, the Senate at 11:44 a.m. took recess until 2:00 p.m. today.

**AFTER RECESS**

The Senate met at 2:00 p.m. and was called to order by the President.

**SENATOR ANNOUNCED PRESENT**

Senator Sims, who had previously been recorded as "Absent-excused," was announced "Present."

**BILLS SIGNED**

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

**S.B. 184**

**S.B. 335**

**S.B. 418**

**S.B. 561**

**S.B. 1379**

**GUEST PRESENTED**

Senator Barrientos was recognized and introduced to the Senate his granddaughter, Angelica Maria Barrientos.

The Senate welcomed Angelica.

**GUEST PRESENTED**

Senator Turner was recognized and introduced to the Senate Rosie Moncrief, wife of Senator Moncrief.

The Senate welcomed Mrs. Moncrief.

### VOTES RECONSIDERED

On motion of Senator Turner and by unanimous consent, the vote by which C.S.H.B. 680 was finally passed was reconsidered.

Question—Shall C.S.H.B. 680 be finally passed?

On motion of Senator Turner and by unanimous consent, the vote by which the Three-Day Rule on C.S.H.B. 680 was suspended was reconsidered.

Question—Shall the Three-Day Rule be suspended?

On motion of Senator Turner and by unanimous consent, the vote by which C.S.H.B. 680 was passed to third reading was reconsidered.

Question—Shall the bill be passed to third reading?

On motion of Senator Turner and by unanimous consent, the vote by which Floor Amendment No. 1 by Senator Turner to C.S.H.B. 680 was adopted was reconsidered.

Question—Shall Floor Amendment No. 1 be adopted?

On motion of Senator Turner and by unanimous consent, Floor Amendment No. 1 was withdrawn.

Senator Turner offered the following amendment to the bill:

#### Floor Amendment No. 3

Amend C.S.H.B. 680 as follows:

(1) Insert the following appropriately numbered section of the bill to read as follows:

SECTION \_\_\_\_ Section 43.105, Government Code, is amended to read as follows:

Sec. 43.105. 9TH JUDICIAL DISTRICT. (a) The voters of Montgomery County [~~and Waller counties~~] elect a district attorney for the 9th Judicial District who represents the state in that district court only in that county [~~those counties~~]. The district attorney also acts as district attorney for the Second 9th Judicial District in Montgomery County.

(b) The district attorney, with the approval of the Commissioners Court [~~commissioners court~~] of Montgomery County [~~one or more of the counties comprising the district~~], may appoint the assistant district attorneys, investigators, secretaries, and other employees necessary to carry out the duties of the office of district attorney.

(c) An investigator appointed by the district attorney is not required to be a licensed attorney.

(d) The salary of each employee of the district attorney is fixed by the Commissioners Court [~~commissioners courts~~] of Montgomery County [~~the counties comprising the district~~]. The district attorney, assistant district attorneys, and investigators employed by the district attorney may be allowed the actual and necessary travel expenses incident to carrying out the duties of the district attorney, subject to the approval of the district

attorney. This subsection does not apply to the portion of compensation or travel expenses paid by the state to the district attorney or his employees.

~~(e) [The salaries and expenses paid by the counties comprising the district shall be paid in proportion to the population of each county, except as otherwise provided by Subsection (f):~~

~~[(f) The district attorney may assign employees to a specific county or to specific counties of the district. The commissioners court of a county to which an employee is assigned may, in its discretion, pay a greater share of the salary or expenses of the employee than the proportionate share provided by Subsection (e). To the extent that a commissioners court pays a greater share of an employee's salary or expenses than that provided by Subsection (e), the counties to which the employee is not assigned are relieved of their proportionate share of the salary or expenses.~~

~~[(g)]~~ The salary and expenses of the employees of the district attorney must be paid by ~~the~~ [each] county at the regular pay period of the county from the officers' salary fund of the county, the general fund of the county, or both, at the discretion of the commissioners court.

~~[(h)]~~ The compensation paid by ~~the~~ [a] county to an employee of the district attorney or set for a position on the staff of the district attorney may not be less than the compensation paid by the county to the person or set for the position on June 14, 1973.

~~[(i)]~~ The commissioners court [of a county in the district] may accept gifts and grants from an individual, partnership, corporation, trust, foundation, association, or political subdivision to finance adequate and effective prosecution, crime prevention, or rehabilitation programs in the county or district approved and administered by the district attorney.

SECTION \_\_\_\_ Section 44.001, Government Code, is amended to read as follows:

Sec. 44.001. ELECTION. The voters of each of the following counties elect a criminal district attorney: Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Dallas, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jackson, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum.

SECTION \_\_\_\_ Subchapter B, Chapter 44, Government Code, is amended by adding Section 44.337 to read as follows:

Sec. 44.337. WALLER COUNTY. (a) The criminal district attorney of Waller County must have been a practicing attorney in this state for at least three years.

(b) The criminal district attorney has all the powers, duties, and privileges in Waller County that are conferred by law on county and district attorneys in the various counties and districts.

(c) The criminal district attorney shall collect the fees, commissions, and perquisites that are provided by law for similar services rendered by a district or county attorney.

(d) The criminal district attorney shall, with the approval of the commissioners court, appoint an assistant district attorney or attorneys and

other personnel necessary to the proper performance of the district attorney's duties. The commissioners court shall pay the salaries of the staff and necessary operating expenses of the office from county funds.

(e) The criminal district attorney or the Commissioners Court of Waller County may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or governmental entity for the purpose of financing or assisting effective prosecution, crime prevention or suppression, rehabilitation of offenders, substance abuse education, treatment and prevention, or crime victim's assistance programs in Waller County. The criminal district attorney shall account for and report to the commissioners court all gifts or grants accepted under this subsection.

SECTION \_\_\_\_ Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. Prosecutors Subject to Chapter. This chapter applies only to the following prosecutors:

(1) the district attorneys for the 2nd, 8th, 9th, 12th, 21st, 22nd, 26th, 27th, 29th, 34th, 36th, 38th, 43rd, 47th, 49th, 51st, 52nd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 83rd, 84th, 85th, 90th, 97th, 105th, 106th, 110th, 118th, 119th, 123rd, 142nd, 145th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 253rd, 266th, 268th, 271st, 286th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Ellis, Falls, Fannin, Fayette, Freestone, Grayson, Lamar, Lamb, Lampasas, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Red River, Robertson, Rusk, Terry, and Willacy.

SECTION \_\_\_\_ The office of county attorney in Waller County is abolished, effective upon the appointment of the criminal district attorney by the governor.

SECTION \_\_\_\_ The governor shall appoint, with the advice and consent of the senate, a criminal district attorney of Waller County who holds office until the next general election.

(2) In Section 2 of the bill, Sec. 46.002(2), Government Code, between "Walker," and "Wichita," insert "Waller,".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Turner and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

The bill as amended was again passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 680 ON THIRD READING**

Senator Turner again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 680 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE RULE 7.21 SUSPENDED  
(Printing Rule)**

On motion of Senator Truan and by unanimous consent, Senate Rule 7.21 was suspended as it relates to the printing of the House amendments to S.B. 89.

**SENATE BILL 89 WITH HOUSE AMENDMENTS**

Senator Truan called S.B. 89 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Committee Amendment No. 1**

Amend S.B. 89 Section 87.006 by adding the following:

(1) review and advise the department on all proposed projects and programs prior to and during implementation;

(2) monitor the birth defects registry and related programs;

(3) make recommendations to the department or the legislature as appropriate.

**Amendment No. 2**

Amend S.B. 89 as follows:

(1) In added Section 87.061(b)(1), Health and Safety Code, between "conditions" and the semicolon (page 10, line 12, committee report), insert "as authorized by Texas statutes".

(2) In added Section 87.061(b)(2), Health and Safety Code, between "conditions" and the semicolon (page 10, line 14, committee report), insert "as authorized by Texas statutes; measures may not include mandatory genetic testing, mandatory sterilization, mandatory prenatal laboratory testing, or the encouragement of abortion of an unborn child who may have a birth defect".

The amendments were read.

Senator Truan moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.



The President asked if there were any motions to instruct the conference committee on S.B. 89 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Truan, Chair; Zaffirini, Moncrief, Ellis, and Wentworth.

#### VOTE RECONSIDERED

On motion of Senator Barrientos and by unanimous consent, the vote by which C.S.H.B. 2537 was finally passed was reconsidered.

Question—Shall C.S.H.B. 2537 be finally passed?

Senator Barrientos offered the following amendment to the bill:

Amend C.S.H.B. 2537 as follows:

On page 3 delete lines 32-39 and substitute the following:

"(d) A local government official who receives a notice under this section shall prepare a written notice stating the legal description of the portion of the tract that overlies a closed municipal solid waste landfill facility, the current owner of the tract, notice of the tract's former use, and notice of the restrictions on the development or lease of the land imposed by this subchapter. The official shall file for record the notice in the real property records in the county where the tract is located."

On page 3 delete lines 45-48 and substitute the following:

"landfill facility shall prepare a written notice stating the former use of the facility, the legal description of the pertinent part of the land, notice of the restrictions on the development or lease of the land imposed by this subchapter, and the name of the owner. The owner shall file for record the notice in the real property records in the county where the land is located."

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again finally passed by the following vote: Yeas 31, Nays 0.

#### CONFERENCE COMMITTEE ON HOUSE BILL 724

Senator Rosson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 724 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on H.B. 724 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Rosson, Chair; Harris of Tarrant, West, Henderson, and Barrientos.

#### GUEST PRESENTED

The President introduced to the Senate former Member of the House of Representatives Alex Moreno.

The Senate welcomed Representative Moreno.

#### SENATE RULE 7.21 SUSPENDED (Printing Rule)

On motion of Senator Barrientos and by unanimous consent, Senate Rule 7.21 was suspended as it relates to the printing of the House amendments to S.B. 1181.

#### SENATE BILL 1181 WITH HOUSE AMENDMENTS

Senator Barrientos called S.B. 1181 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Amendment

Amend S.B. 1181 by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the powers and duties of and systems and programs under the Employees Retirement System of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 803.202, Government Code, is amended to read as follows:

Sec. 803.202. SERVICE IN CERTAIN RETIREMENT SYSTEMS.

(a) The board of trustees of the Employees Retirement System of Texas by rule may:

(1) consider the classes of service in the Employees Retirement System of Texas as if they were, for purposes of this chapter, classes in separate statewide retirement systems; or

(2) permit a person who is retiring exclusively from retirement systems administered by the board to use the shortest length-of-service requirement provided for retirement in any class in which the person has service credit.

(b) A member of a retirement system administered by the board of trustees of the Employees Retirement System of Texas may reestablish service credit previously canceled in another retirement system administered by the board if the member holds a position included in the system of which the person is a member and has held the position for at least 12 months. The method of reestablishment and the amount to be deposited are as provided by the applicable law providing for

reestablishment of service credit generally in the particular retirement system.

SECTION 2. Subtitle A, Title 8, Government Code, is amended by adding Chapter 805 to read as follows:

CHAPTER 805. CREDIT TRANSFER BETWEEN EMPLOYEES  
RETIREMENT SYSTEM OF TEXAS AND TEACHER  
RETIREMENT SYSTEM OF TEXAS

Sec. 805.001. DEFINITIONS. In this chapter:

(1) "Employees retirement system" means the Employees Retirement System of Texas.

(2) "Member" means a person having membership in the employees retirement system or the teacher retirement system under statutes and rules governing membership in the respective systems.

(3) "Service credit" has the meaning assigned, as applicable, by Section 811.001 or Section 821.001.

(4) "System" means the employees retirement system or the teacher retirement system.

(5) "Teacher retirement system" means the Teacher Retirement System of Texas.

Sec. 805.002. ELIGIBILITY TO TRANSFER SERVICE CREDIT.

(a) A member of both the employees retirement system and the teacher retirement system who applies for service or disability retirement from either system may transfer to that system service credit established in the other system if the member has at least three years of service credit in the system from which the member is retiring.

(b) A member of both the employees retirement system and the teacher retirement system who has less than three years of service credit in the system in which the person most recently received service credit may, at the time the person applies for service or disability retirement from the other system, transfer service credit to that system from the system in which the person most recently received service credit.

(c) Except as provided by Subsections (e) and (f), a member of the employees retirement system or the teacher retirement system who formerly was a member of the other system may reinstate or purchase service credit in the other system for the purpose of making a transfer under Subsection (a) if the member has at least three years of service credit in the system in which the person currently is a member.

(d) Except as provided by Subsections (e) and (f), the designated beneficiary of a member of the employees retirement system or the teacher retirement system who dies while holding a position included in the membership of the system may make a transfer under Subsection (a) and a reinstatement or purchase under Subsection (c) if the deceased member had at least three years of service credit in the system in which the member was performing service at the time of death. The designated beneficiary may make a transfer under Subsection (b) if the deceased member had less than three years of service credit in the system in which the member was performing service at the time of death. If a member is not survived by a designated beneficiary, the personal representative of the

member's estate has the same right under this subsection as a designated beneficiary.

(e) Service credit that is canceled by a termination of membership that occurs after August 31, 1993, may be reinstated and other service purchased only by a member of the system in which the service is creditable who meets the general requirements for reinstatement or purchase of service credit in that system.

(f) A person who is receiving retirement benefits based on the person's service credited in one system and who applies for service or disability retirement from the other system is not eligible to transfer service credit under this chapter. The designated beneficiary, or the personal representative of the estate, of a person who at the time of death was receiving benefits based on the person's service credited in one system and who held a position included in the other system is not eligible to transfer service credit under this chapter.

Sec. 805.003. PAYMENTS TO REINSTATE OR PURCHASE SERVICE CREDIT. The cost of reinstating or purchasing service credit under Section 805.002 is determined according to the statutes that govern the reinstatement or purchase of the type of service credit in the system in which it is to be reinstated or purchased. All payments for service credit reinstated or purchased under Section 805.002 must be made before retirement or the first payment of a death benefit annuity, as applicable.

Sec. 805.004. TRANSFER OF SERVICE CREDIT. (a) A person who elects to transfer service credit under Section 805.002 shall notify, in the manner required by the system to which the credit will be transferred, the system of the election. The system shall notify the other system of the election.

(b) The systems by rule or agreement shall determine the manner in which the service credit is transferred.

(c) A transfer of service credit under this chapter cancels service credit and, if applicable, membership in the system from which it is transferred.

Sec. 805.005. APPLICABILITY OF PROPORTIONATE RETIREMENT PROGRAM. An election to transfer service credit under Section 805.002 is an alternative to participation in the program provided by Chapter 803, except that a person having service credit in the employees retirement system, the teacher retirement system, and another public retirement system participating in that program may transfer service credit under this chapter, if eligible, and use the combined service credit for purposes of the program provided by Chapter 803.

Sec. 805.006. CREDITING OF TRANSFERRED SERVICE CREDIT; REFUND. (a) Except as provided by Subsections (b) and (c), service credit transferred under this chapter is credited in the system to which it is transferred according to rules of the teacher retirement system determining the amount of service creditable.

(b) Not more than one month of service credit may be granted for service during that month.

(c) A person who transfers service credit under this chapter may not receive service credit for all military service performed in an amount that exceeds the maximum amount creditable in the system to which credit is

transferred. A person is eligible for a refund from the system from which credit is transferred under this section of contributions made for military service credit, other than any amount that represents a fee, that exceeds the maximum amount creditable.

Sec. 805.007. EFFECT OF TRANSFER OF SERVICE CREDIT. (a) A person who transfers service credit under this chapter forfeits all rights to benefits payable by the system from which it is transferred and is not an annuitant of that system for any purpose, including the payment of postretirement increases to annuitants of that system.

(b) Service credit transferred under this chapter is considered as if it had been granted for service performed under the system to which it has been transferred and is used in satisfying minimum service requirements for retirement and in determining the amount of benefits that are based on the amount of a person's service credit:

(1) except that a person's average salary for the purpose of computing an annuity may be determined only from service credit that was originally established in one system and that results in the higher average salary; and

(2) except as provided by Section 805.006.

Sec. 805.008. RESPONSIBILITY FOR BENEFIT PAYMENTS.

(a) The system from which a person's service credit is transferred under this chapter shall transfer to the other system, at the time the annuity based on the service credit becomes payable, an amount equal to the portion of the actuarial value of the annuity that represents the percentage of the total amount of the person's service credited in both systems that was credited in the system from which the credit is being transferred.

(b) The systems jointly by rule shall adopt actuarial tables and investment assumptions to be used in computing actuarial values under this section.

(c) For the purpose of computing an amount to be transferred under this section, service credit in either system must be considered as if it were credited under rules of the teacher retirement system determining the amount of service creditable.

(d) An amount transferred under this section is payable from amounts credited to the person's individual account and amounts credited to the account in which the system places state contributions. An amount received under this section shall be deposited in the account from which the system receiving the amount pays annuities.

(e) The system to which a transfer is made under this section is responsible for paying the annuity for which the transfer was made, including the entire amount of any increase in the annuity granted after the transfer.

Sec. 805.009. RULES. In addition to the rules specifically required by this chapter, a system may adopt other rules for the administration of this chapter.

SECTION 3. Subchapter B, Chapter 813, Government Code, is amended by adding Section 813.104 to read as follows:

Sec. 813.104. Alternative Payments to Establish or Reestablish Service Credit. (a) A member who is otherwise eligible may establish or

reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fees, except that a person's last in a series of payments under this section may be for a period of remaining service that is less than one year.

(c) The retirement system shall grant the applicable amount of service credit after each payment is made under this section.

(d) Payments may not be made under this section:

(1) to establish or reestablish service credit of a person who has retired or died; or

(2) to establish current service under Section 813.201.

(e) The retirement system may adopt rules to administer this section.

SECTION 4. Subchapter B, Chapter 813, Government Code, is amended by adding Section 813.105 to read as follows:

Sec. 813.105. PAYROLL DEDUCTIONS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A contributing member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fee, except as provided by Subsection (c).

(c) Payments to establish or reestablish service credit of less than one year or to establish or reestablish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(d) Payroll deductions for payments under this section shall be made and submitted to the retirement system at the times and in the manner provided for member contributions under Section 815.402.

(e) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit or the amount required for credit under Subsection (c), at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit.

(f) A member who, while making payments under this section, ceases to hold a position or withdraws the authority for payroll deductions may contract with the retirement system for an alternative method of continuing the payments. The retirement system may refund payments credited to the suspense account and not transferred to trust fund accounts if a remaining payment becomes delinquent by more than 60 days.

(g) Payments may not be made under this section to establish or reestablish service credit of a person who has retired or died, except that

a beneficiary may make payment in a lump sum for the remainder of service credit for which payments were begun before the member's death.

(h) The retirement system may adopt rules to administer this section.

SECTION 5. Subchapter B, Chapter 813, Government Code, is amended by adding Section 813.106 to read as follows:

Sec. 813.106. SERVICE NOT PREVIOUSLY ESTABLISHED. The state shall make contributions for service not previously established that is established under Section 813.104 or 813.105 in the amount provided by Section 813.202(e) for membership service or the amount provided by Section 813.302(d) for military service, as applicable. The state contributions will be made at the time the service credit is granted.

SECTION 6. Subsection (b), Section 813.304, Government Code, is amended to read as follows:

(b) The retirement system shall use military service credit in computing service retirement or nonoccupational disability retirement benefits of a member of the employee class only if the member has, without military service credit, at least five [40] years of service credit in that class.

SECTION 7. Section 813.504, Government Code, is amended to read as follows:

Sec. 813.504. ELIGIBILITY FOR SERVICE CREDIT PREVIOUSLY CANCELED. A member may reestablish service credit previously canceled in the retirement system if the member, after cancellation of the credit, holds a position for six [24] months that is included in the employee class.

SECTION 8. Subsection (a), Section 813.509, Government Code, is amended to read as follows:

(a) A member who retires based on service or a disability is entitled to service credit in the retirement system for the member's sick leave that has accumulated and is unused on the last day of employment. Sick leave is creditable in the retirement system at the rate of one month of service credit for each 20 [40] days, or 160 [320] hours, of accumulated sick leave. An increment of less than 20 [40] days is not creditable.

SECTION 9. Subchapter F, Chapter 813, Government Code, is amended by adding Section 813.510 to read as follows:

Sec. 813.510. CREDIT FOR COUNTY CHILD WELFARE BOARD SERVICE. (a) An eligible member may, before September 1, 1994, claim service credit not otherwise creditable in the retirement system for service performed before September 1, 1980, for a county child welfare board.

(b) A member eligible to claim credit under this section is one who:

(1) was a contributing member on August 31, 1993, having performed at least 24 months of continuous state service as of that date; and

(2) was subject during the period of welfare board service to personnel rules of and direct supervision by the Texas Department of Human Services or its predecessor.

(c) A member may claim credit under this section by depositing with the retirement system in a lump sum:

(1) a contribution based on the member's monthly salary during the period of service for a county child welfare board and computed for

the number of months for which credit is sought at the combined rates currently required of the state and employee members of the system for new service;

(2) interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date the service was performed to the date of deposit; and

(3) any membership fees required of members of the system during the period beginning on the date the service began and ending on the date of deposit.

(d) The retirement system shall deposit the salary contribution in the member's individual account in the employees saving account, interest in the state accumulation account, and membership fees in the expense account.

(e) The retirement system shall determine the amount to be deposited in each case and may not grant service credit under this section until the required amount has been paid in full.

(f) Service credit may not be established under this section if the service is currently credited in another public retirement system.

(g) This section expires October 1, 1994.

SECTION 10. Subchapter G, Chapter 814, Government Code, is amended by adding Section 814.603 to read as follows:

Sec. 814.603. SUPPLEMENTAL ONE-TIME PAYMENT. (a) The retirement system shall make a supplemental payment to persons whose annuities are described by Section 814.107, 814.207, 814.305, or 814.601(a) and that are based on service retirements, disability retirements, or deaths. This supplemental payment is in addition to the regular monthly annuity payment. Each person who receives an annuity described by this subsection is entitled to receive one payment equal to 10 percent of one month's annuity payment for each fiscal year before the fiscal year beginning September 1, 1993, in which the annuity has been paid. A supplemental payment may not exceed 350 percent of a monthly annuity. Only a person whose annuity began in the fiscal year ending August 31, 1993, or earlier is eligible for the supplemental payment. Supplemental payments under this subsection must comply with Section 811.006.

(b) The retirement system shall pay the supplemental payment provided by Subsection (a) from the retirement annuity reserve account and may transfer to that account from the state accumulation account any portion of the amount that exceeds the amount in the retirement annuity reserve account available to finance this supplemental payment and that is actuarially determined to be necessary to finance the supplemental payment.

(c) The board of trustees may adopt rules to implement the payment, including rules that govern the timing of the supplemental payment described by Subsection (a).

(d) The board of trustees may by rule authorize similar supplemental payments in the fiscal year ending August 31, 1995, if the payments are in compliance with Section 811.006.

SECTION 11. Section 815.002, Government Code, is amended by adding Subsection (d) to read as follows:



(d) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 12. Subchapter A, Chapter 815, Government Code, is amended by adding Section 815.0031 to read as follows:

Sec. 815.0031. INELIGIBILITY FOR BOARD AND OF CERTAIN EMPLOYEES. (a) A person is not eligible for appointment or election to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; or

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system.

(b) A paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee or an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person who is the spouse of a paid officer, manager, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee and may not be an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not serve as a trustee or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

SECTION 13. Subchapter A, Chapter 815, Government Code, is amended by adding Section 815.008 to read as follows:

Sec. 815.008. GROUNDS FOR REMOVAL OF TRUSTEE. (a) It is a ground for removal from the board if a trustee:

(1) violates a prohibition established by Section 815.0031;

(2) cannot discharge the person's duties for a substantial part of the term for which the person is appointed or elected because of illness or disability; or

(3) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the appropriate appointing officer, if any, that a potential ground for removal exists.

SECTION 14. Subchapter B, Chapter 815, Government Code, is amended by adding Section 815.111 to read as follows:

Sec. 815.111. MISCELLANEOUS BOARD DUTIES. (a) The board shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

SECTION 15. Subchapter C, Chapter 815, Government Code, is amended by adding Section 815.212 to read as follows:

Sec. 815.212. EMPLOYMENT PRACTICES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all non-entry-level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for retirement system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated at least annually, and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 16. Subsections (a) and (b), Section 815.301, Government Code, are amended to read as follows:

(a) The board of trustees shall:

(1) invest the assets of the retirement system[~~other than assets of the law enforcement and custodial officer supplemental retirement fund;~~] as a single fund without distinction as to their source; and

(2) hold securities purchased with the assets described by Subsection (a)(1) collectively for the proportionate benefit of:

(A) all accounts in the trust fund that are listed in Section 815.310(b); and

(B) the law enforcement and custodial officer supplemental retirement fund.

(b) ~~The [Except for assets of the law enforcement and custodial officer supplemental retirement fund, the]~~ board of trustees may, under the standard of care provided by Section 815.307, invest and reinvest any of the retirement system's assets and may commingle assets of the trust fund and the law enforcement and custodial officer supplemental retirement fund with the assets of the Judicial Retirement System of Texas Plan Two for investment purposes, as long as proportionate ownership records are maintained and credited. Investments may include home office facilities, including land, equipment, and office building, used in administering the retirement system.

SECTION 17. Subsection (b), Section 815.310, Government Code, is amended to read as follows:

(b) All assets of the trust fund shall be credited, according to the purpose for which they are held, to one of the following accounts:

- (1) employees saving account;
- (2) state accumulation account;
- (3) retirement annuity reserve account;
- (4) interest account; ~~or~~
- (5) expense account[~~or~~
- ~~[(6) benefit increase reserve account].~~

SECTION 18. Subsection (a), Section 815.313, Government Code, is amended to read as follows:

(a) The retirement system shall transfer to the retirement annuity reserve account money as required by Section 815.318, 815.319, ~~[815.320]~~ or 815.321.

SECTION 19. Subsection (a), Section 815.317, Government Code, is amended to read as follows:

(a) The retirement system shall deposit in the law enforcement and custodial officer supplemental retirement fund state contributions and other ~~[payments made as provided by Section 815.405, any]~~ appropriations made by the legislature to the fund~~[- money collected under Section 2(1), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes);]~~ and proceeds from investment of the fund.

SECTION 20. Section 815.318, Government Code, is amended to read as follows:

Sec. 815.318. TRANSFER OF ASSETS FROM INTEREST ACCOUNT. (a) The board of trustees shall transfer from the interest account to the employees saving account amounts of interest computed under Section 815.311 at the following times:

(1) as required during the fiscal year for a member's account in the retirement system that is closed before the last day of the fiscal year; and

(2) as of the last day of the fiscal year for a member's account that is not closed before the last day of the fiscal year.

(b) As required during the year, the board of trustees shall transfer from the interest account to the expense account amounts it determines necessary for the payment of the retirement system's expenses that exceed the amount of money available for those expenses.

(c) As of the last day of each fiscal year, the board of trustees shall transfer from the interest account to the retirement annuity reserve account an amount equal to:

(1) five percent of the mean amount in the retirement annuity reserve account for that fiscal year; or

(2) an amount computed at a greater rate if the actuary recommends the greater rate to finance adequately the annuities payable from the retirement annuity reserve account.

(d) ~~[As of the last day of each fiscal year, the board of trustees shall transfer from the interest account to the benefit increase account an amount computed at the rate set by the board under Section 815.106.]~~

~~[(e)]~~ After making the transfers required by this section, the board of trustees, as of the last day of each fiscal year, shall transfer the amount remaining in the interest account to the state accumulation account.

SECTION 21. Subsection (c), Section 815.401, Government Code, is amended to read as follows:

(c) If the legislature appropriates, on behalf of each contributing member for any fiscal year, a membership fee to be deposited in the expense account in an amount equal to or greater than the membership fee required by Subsection (a), the members are not required to pay the membership fee for that year. The retirement system may apply the membership fee to the administration of any program administered by the board of trustees.

SECTION 22. Section 815.403, Government Code, is amended by amending Subsections (a) and (b) and by adding Subsection (g) to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system:

(1) an amount equal to 7.4 percent of the total compensation of all members of the retirement system for that year;

(2) money to pay lump-sum death benefits for retirees under Section 814.501;

(3) an amount for the law enforcement and custodial officer supplemental retirement fund equal to 2.13 percent of the aggregate state compensation of all custodial and law enforcement officers for that year;

~~(4) money necessary for the administration [and payment] of [benefits from] the law enforcement and custodial officer supplemental retirement fund; and~~

~~(5) [(4)] money for service credit not previously established, as provided by Section 813.202(e) or 813.302(d).~~

(b) Before November 2 of each even-numbered year, the retirement system shall certify to the Legislative Budget Board and to the budget division of the governor's office for review:

(1) an estimate of the amount necessary to pay the state's contribution under Subsections (a)(1), (a)(2), (a)(3), and (a)(5) ~~[(a)(4)]~~ for the following biennium;

~~[(2) the estimated amount, based on actuarial valuations, of appropriated funds required in addition to other available money to finance all benefits provided from the law enforcement and custodial officer supplemental retirement fund for the following biennium;~~

~~[(3) the estimated amount, based on actuarial valuations, of appropriated funds required for the following biennium to fully finance, within a period of not more than 36 years after September 1, 1979, liabilities of the law enforcement and custodial officer supplemental retirement fund accrued because of service performed before September 1, 1979;] and~~

~~(2) [(4)] as a separate item, an estimate of the amount required to administer the law enforcement and custodial officer supplemental retirement fund for the following biennium.~~

(g) The contributions from the state to the law enforcement and custodial officer supplemental retirement fund may be made only from the general revenue fund.

SECTION 23. Section 815.505, Government Code, is amended to read as follows:

Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND CUSTODIAL OFFICERS. Not later than the 12th day of the month following the month in which a person begins or ceases employment as a law enforcement officer or custodial officer ~~[As of the last day of each fiscal year]~~, the ~~[Department of]~~ Public Safety Commission, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Commission ~~[Department]~~, or ~~[the State Purchasing and General Services Commission, and]~~ the Texas Board ~~[Department]~~ of Criminal

Justice, as applicable, [Corrections] shall certify to the retirement system, in the manner prescribed by the system, the name of the employee and such other information as the system determines is necessary for the crediting of service and financing of benefits under this subtitle [the names of employees and the amount of service each employee performed as a law enforcement officer or custodial officer during that fiscal year].

SECTION 24. Subchapter F, Chapter 815, Government Code, is amended by adding Section 815.5071 to read as follows:

Sec. 815.5071. TRUSTEE-TO-TRUSTEE TRANSFER. Notwithstanding Section 811.005 and to the extent required as a condition of plan qualification under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(31)) and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of trustees may adopt rules to carry out this section. Terms used in this section have the meanings assigned by the Internal Revenue Code of 1986 (Title 26, United States Code).

SECTION 25. Subchapter F, Chapter 815, Government Code, is amended by adding Section 815.508 to read as follows:

Sec. 815.508. COMPLAINT FILES. (a) The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve.

(b) If a written complaint is filed with the retirement system that the system has authority to resolve, the system, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 26. Subchapter F, Chapter 815, Government Code, is amended by adding Sections 815.509 and 815.510 to read as follows:

Sec. 815.509. ADVISORY COMMITTEES. (a) The board of trustees may establish advisory committees as it considers necessary to assist it in performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.

(b) Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account.

Sec. 815.510. QUARTERLY REPORT. The Employees Retirement System of Texas shall submit a report not later than the 25th day of the month following each calendar quarter to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the appropriate oversight committees

of the house and senate, and the Legislative Budget Board. The report shall include the following:

- (1) the current end-of-month market value of the trust fund;
- (2) the current book value of the trust fund;
- (3) the asset allocations of the trust fund expressed in percentages of stocks, fixed income, cash, or other financial investments; and
- (4) the investment performance of the trust fund utilizing accepted industry measurement standards.

SECTION 27. Before October 1, 1995, the Public Safety Commission, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Commission, and the Texas Board of Criminal Justice shall certify to the Employees Retirement System of Texas, in the manner prescribed by the retirement system, the name of each person employed on September 1, 1995, by the particular agency as a law enforcement officer, as defined by Section 811.001, Government Code, or a custodial officer, as defined by that section, and such other information as the system determines is necessary for the crediting of service and financing of benefits under Subtitle B, Title 8, Government Code.

SECTION 28. (a) All persons who were employed by the Texas Rehabilitation Commission on August 31, 1993, who were contributing members of the Teacher Retirement System of Texas on that date, and who remain employees of the Texas Rehabilitation Commission on September 1, 1993, become members of the Employees Retirement System of Texas on the latter date.

(b) At the time of the retirement or death of a person described by Subsection (a) of this section, the Teacher Retirement System of Texas and the Employees Retirement System of Texas shall make a computation and transfer of money in the manner provided by Section 805.008, Government Code, as added by this Act, and the person's service credit in the Teacher Retirement System of Texas will be transferred to the Employees Retirement System of Texas. The Employees Retirement System of Texas has the same responsibility for payments after retirement or death as is provided by Section 805.008, Government Code, as added by this Act.

(c) Notwithstanding Chapter 805, Government Code, as added by this Act, a person who becomes a member of the Employees Retirement System of Texas under this section is not eligible to transfer service credit from the Employees Retirement System of Texas to the Teacher Retirement System of Texas.

SECTION 29. Chapter 805, Government Code, as added by this Act, applies only to retirements and deaths that occur on or after August 31, 1993.

SECTION 30. Subchapter B, Chapter 833, Government Code, is amended by adding Section 833.105 to read as follows:

Sec. 833.105. Alternative Payments to Establish or Reestablish Service Credit. (a) A member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fees, except that a person's last in a series of payments under this section may be for a period of remaining service that is less than one year.

(c) The retirement system shall grant the applicable amount of service credit after each payment is made under this section.

(d) Payments may not be made under this section:

(1) to establish or reestablish service credit of a person who has retired or died; or

(2) to establish current service under Section 833.101.

(e) The retirement system may adopt rules to administer this section.

SECTION 31. Subchapter B, Chapter 833, Government Code, is amended by adding Section 833.106 to read as follows:

Sec. 833.106. PAYROLL DEDUCTIONS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A contributing member who is otherwise eligible may establish or reestablish service credit in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fee, except as provided by Subsection (c).

(c) Payments to establish or reestablish service credit of less than one year or to establish or reestablish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(d) Payroll deductions for payments under this section shall be made and submitted to the retirement system at the times and in the manner provided for member contributions under Section 835.101.

(e) The retirement system shall credit a member's payments made under this section to a suspense account until the sum of the payments equals the amount required for one year of service credit or the amount required for credit under Subsection (c), at which time the retirement system shall deposit the payments in the general revenue fund and grant the applicable amount of service credit.

(f) A member who, while making payments under this section, ceases to be a judicial officer or withdraws the authority for payroll deductions may contract with the retirement system for an alternative method of continuing the payments. The retirement system may refund payments credited to the suspense account and not transferred to the general revenue fund if a remaining payment becomes delinquent by more than 60 days.

(g) Payments may not be made under this section to establish or reestablish service credit of a person who has retired or died, except that a beneficiary may make payment in a lump sum for the remainder of service credit for which payments were begun before the member's death.

(h) The retirement system may adopt rules to administer this section.



SECTION 32. Subchapter B, Chapter 838, Government Code, is amended by adding Section 838.105 to read as follows:

Sec. 838.105. Alternative Payments to Establish or Reestablish Service Credit. (a) A member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fees, except that a person's last in a series of payments under this section may be for a period of remaining service that is less than one year.

(c) The retirement system shall grant the applicable amount of service credit after each payment is made under this section.

(d) Payments may not be made under this section:

(1) to establish or reestablish service credit of a person who has retired or died; or

(2) to establish current service under Section 838.101.

(e) The retirement system may adopt rules to administer this section.

SECTION 33. Subchapter B, Chapter 838, Government Code, is amended by adding Section 838.106 to read as follows:

Sec. 838.106. PAYROLL DEDUCTIONS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A contributing member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fee, except as provided by Subsection (c).

(c) Payments to establish or reestablish service credit of less than one year or to establish or reestablish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(d) Payroll deductions for payments under this section shall be made and submitted to the retirement system at the times and in the manner provided for member contributions under Section 840.102.

(e) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit or the amount required for credit under Subsection (c), at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit.

(f) A member who, while making payments under this section, ceases to be a judicial officer or withdraws the authority for payroll deductions may contract with the retirement system for an alternative method of continuing the payments. The retirement system may refund payments credited to the suspense account and not transferred to trust fund accounts if a remaining payment becomes delinquent by more than 60 days.

(g) Payments may not be made under this section to establish or reestablish service credit of a person who has retired or died, except that a beneficiary may make payment in a lump sum for the remainder of service credit for which payments were begun before the member's death.

(h) The retirement system may adopt rules to administer this section.

SECTION 34. Subchapter B, Chapter 838, Government Code, is amended by adding Section 838.107 to read as follows:

Sec. 838.107. SERVICE NOT PREVIOUSLY ESTABLISHED. The state shall make contributions for service not previously established that is established under Section 838.105 or 838.106 in the amount provided by Section 838.103(f) for military service. The state contributions will be made at the time the service credit is granted.

SECTION 35. Subsection (a), Section 839.101, Government Code, is amended to read as follows:

(a) A member is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least one year;

(2) is at least 65 years old and has at least 12 years of service, continuous or otherwise, credited in the retirement system, regardless of whether the member currently holds a judicial office; or

(3) has at least 20 ~~[25]~~ years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least 10 years, regardless of whether the member currently holds a judicial office.

SECTION 36. Section 839.102, Government Code, is amended to read as follows:

Sec. 839.102. SERVICE RETIREMENT ANNUITY. (a) Except as provided by Subsections (b) and (c), the standard service retirement annuity is an amount equal to 50 percent of the state salary being paid at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed ~~[computed on the basis of the member's average monthly compensation for the 36 highest months of compensation during the last 60 months of service, multiplied by one-twelfth of three percent for each month of service that is credited in the retirement system].~~

(b) The retirement system shall increase by 10 percent of the amount of the applicable state salary under Subsection (a) or (c) the annuity of a member who on the effective date of retirement has not been out of judicial office for more than one year ~~[standard service retirement annuity may not be more than 60 percent of the average monthly compensation computed under Subsection (a)].~~

(c) The standard service retirement annuity of a person qualifying for retirement under Section 839.101(b) is an amount computed as a percentage of the state salary being paid at the time the member retires to a judge of a court of the same classification as the last court to which the

retiring member was elected or appointed, according to the following schedule:

<u>age at retirement</u>	<u>percentage of state salary</u>
<u>at least 60 but less than 61</u>	<u>40 percent</u>
<u>at least 61 but less than 62</u>	<u>41.7 percent</u>
<u>at least 62 but less than 63</u>	<u>43.6 percent</u>
<u>at least 63 but less than 64</u>	<u>45.6 percent</u>
<u>at least 64 but less than 65</u>	<u>47.7 percent</u>

~~[as provided by Subsection (a), reduced by one-third of one percent for each whole or partial calendar month that occurs during the period from the date of retirement to the date of the retiree's 65th birthday, including the months that contain the dates of retirement and birthday].~~

SECTION 37. Subsection (b), Section 840.103, Government Code, is amended to read as follows:

(b) Before November 2 of each even-numbered year, the retirement system shall certify to the Legislative Budget Board and to the budget division of the governor's office for review:

(1) an actuarial valuation of the retirement system to determine the percentage of annual payroll required from the state to finance fully the retirement system as provided by Section 840.106 ~~[without any unfunded liability];~~

(2) an estimate of the amount necessary to pay the state's contribution under Subdivision (1) for the following biennium; and

(3) as a separate item, an estimate of the amount, in addition to anticipated receipts from membership fees, required to administer the retirement system for the following biennium.

SECTION 38. Subchapter B, Chapter 840, Government Code, is amended by adding Section 840.106 to read as follows:

Sec. 840.106. ACTION INCREASING AMORTIZATION PERIOD.

(a) A rate of member or state contributions to or a rate of interest required for the establishment of credit in the retirement system may not be reduced or eliminated, a type of service may not be made creditable in the retirement system, a limit on the maximum permissible amount of a type of creditable service may not be removed or raised, a new monetary benefit payable by the retirement system may not be established, and the determination of the amount of a monetary benefit from the system may not be increased, if, as a result of the particular action, the time, as determined by an actuarial valuation, required to amortize the unfunded actuarial liabilities of the retirement system would be increased to a period that exceeds 30 years by one or more years.

(b) If the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years at the time an action described by Subsection (a) is proposed, the proposal may not be adopted if, as a result of the adoption, the amortization period would be increased, as determined by an actuarial valuation.

SECTION 39. Subsection (a), Section 840.301, Government Code, is amended to read as follows:

(a) The board of trustees may, under the standard of care provided by Section 840.303, invest and reinvest the retirement system's assets and may

commingle assets of the trust fund with the assets of the Employees Retirement System of Texas, including its trust fund and the law enforcement and custodial officer supplemental retirement fund, for investment purposes, as long as proportionate ownership records are maintained and credited.

SECTION 40. Subchapter E, Chapter 840, Government Code, is amended by adding Section 840.405 to read as follows:

Sec. 840.405. TRUSTEE-TO-TRUSTEE TRANSFER. Notwithstanding Section 836.004 and to the extent required as a condition of plan qualification under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(31)) and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of trustees may adopt rules to carry out this section. Terms used in this section have the meanings assigned by the Internal Revenue Code of 1986 (Title 26, United States Code).

SECTION 41. Subchapter E, Chapter 840, Government Code, is amended by adding Section 840.406 to read as follows:

Sec. 840.406. PLAN QUALIFICATION. (a) The provisions of this subtitle shall be interpreted and administered in a manner that permits the retirement system's benefit plan to be considered a qualified plan under Section 401, Internal Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules necessary to accomplish that purpose, and those rules are considered a part of the plan.

(b) The retirement system's benefit plan shall be considered the primary retirement plan for members of the retirement system in determining qualification status under Section 401(a), Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)).

SECTION 42. Subparagraph (A), Paragraph (5), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Chapters 242 and 391, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(A) "Employee" [~~"State-employee"~~] shall mean any appointive or elective state officer or employee in the service of the State of Texas, including an employee of an institution of higher education:

(i) who is retired or retires and is an annuitant under the jurisdiction of the Employees Retirement System of Texas, pursuant to Subtitle B, D, or E, or Chapter 803, Title 8, Government Code, who is retired or retires and is an annuitant under the jurisdiction of the Teacher Retirement System of Texas, pursuant to Subtitle C, Title 8, Government Code, whose last employment with the state prior to retirement was as an employee of the Teacher Retirement System of Texas, school districts established within state eleemosynary institutions, the Texas Rehabilitation Commission, the Central Education Agency, the Texas Higher Education Coordinating Board, or an institution of higher education,

or who is retired or retires and is an annuitant under the optional retirement program established by Chapter 830, Government Code, if the person's last state employment before retirement, including employment by a public community/junior college, was as an officer or employee of the Texas Higher Education Coordinating Board, or an institution of higher education, and if the person either:

(a) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas had the person not elected to participate in the optional retirement program; or

(b) is disabled;

(ii) who receives his compensation for services rendered to the State of Texas on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of this state;

(iii) who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Comptroller of Public Accounts upon the State Treasurer against appropriations made by the Texas Legislature from any state funds or against any trust funds held by the State Treasurer or who is paid from funds of an official budget of a state department, rather than from funds of the General Appropriations Act;

(iv) who is appointed, subject to confirmation of the senate, as a member of a board or commission with administrative responsibility over a statutory agency having statewide jurisdiction whose employees are covered by this Act;

(v) who is a member of the governing body of an institution of higher education, as that term is defined by Section 61.003, Education Code, including subsequent amendments to that section;

(vi) who is a member of the State Board of Education;

(vii) who receives compensation for services rendered to an institution of higher education on a warrant or check issued pursuant to a payroll certified by an institution of higher education or by an elected or duly appointed officer of this state, and who is eligible for participation in the Teacher Retirement System of Texas; or

(viii) ~~(vi)~~ who receives compensation for services rendered to an institution of higher education as provided by this subdivision but is not permitted to be a member of the Teacher Retirement System of Texas because the person is solely employed by an institution of higher education that as a condition of employment requires the person to be enrolled as a student in an institution of higher education in graduate-level courses and who is employed by the institution at least 20 hours a week.

SECTION 43. Paragraphs (6), (14), and (15), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), are amended to read as follows:

(6) "Employer" shall mean the State of Texas and[-] all its departments~~[-, and any participating school district].~~

(14) "Part-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working less than 20 hours per week. A part-time [state] employee shall receive the benefits of one-half the amount of the state's contribution received by full-time employees.

(15) "Full-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working 20 or more hours per week. A full-time [state] employee shall receive the benefits of a full state contribution for coverage under this Act.

SECTION 44. Subsection (e), Section 5, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Chapters 391 and 850, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) The trustee is authorized to select, contract for, and make available to eligible employees and annuitants in a specific area of the state, services performed by health maintenance organizations which are approved by the federal government or the State of Texas to offer health care services in that area. Eligible employees and annuitants may participate in a selected health maintenance organization in lieu of participation in the health insurance benefits in the Employees Uniform Group Insurance Program[; and the employer contributions provided by Section 14(a) or (b) of this Act for health care coverage shall be paid to the selected health maintenance organizations on behalf of the participants].

SECTION 45. Subsection (a), Section 13B, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

(a) The trustee may study the feasibility of establishing a cafeteria plan and may design, develop, adopt, implement, and administer a cafeteria plan if the trustee determines that the establishment of a cafeteria plan is feasible, would be beneficial to the state and to the [state] employees who would be eligible to participate in the cafeteria plan, and would not adversely affect the insurance program established under this Act. The trustee may include in the cafeteria plan any benefit that may be included in a cafeteria plan under federal law.

SECTION 46. Section 14, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Chapters 391 and 850, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 14. PAYMENT OF CONTRIBUTIONS. (a) The trustee shall use the amount appropriated for employer contributions in accordance with Section 15 of this Act to fund the basic coverage. The trustee may equitably allocate to each health benefits plan the employer contributions that would be required to fund basic health coverage for participants in the plans to the extent funds are available. In allocating the employer contributions among plans, the trustee shall consider the relevant risk characteristics of each plan's enrollment, including demographic variations in the use and cost of health care and the prevailing cost patterns in the area in which the plan operates. The allocation must be reasonable and set in a manner which assures employees a fair choice among health

benefit plans providing a basic plan. The contribution set for each employee shall be within the total amount appropriated in the General Appropriations Act.

(b) Any employer contributions remaining after the basic coverage has been funded may be allocated by the trustee to fund optional coverages in any manner the trustee determines is appropriate. ~~[Each participating school district shall contribute, for each school district employee covered by the program, an amount equal to the employee only cost of the plans of group coverages authorized by the trustee for school district employees; provided that the school district's contribution may not exceed the amount contributed for each state employee in accordance with Subsection (a) of this section. If the cost of the plan authorized by the trustee for school district employees exceeds the amount of the district's contribution, the district shall deduct from the monthly compensation of the employee an amount sufficient to pay the amount of the premiums not covered by the district's contribution.]~~

(c) The trustee may not allocate any employer contributions to fund voluntary coverages. Voluntary coverages must be funded solely by employee contributions. ~~[If an employee or annuitant refuses in writing the coverages, benefits, or services provided by this Act by a statement in writing satisfactory to the trustee, then in no event shall the State of Texas, the employee's department, or the participating school district make any contribution to the cost of any other coverages, services, or benefits on such employee or annuitant.]~~

(d) If the cost of the basic coverage exceeds the amount of employer contributions allocated to fund the basic coverage, the state shall deduct from or reduce the monthly compensation of the employee and shall deduct from the retirement benefits of the annuitant an amount sufficient to pay the cost of the basic coverage. ~~[Except as provided by Subsection (c) of this section, if any employee or annuitant applies for coverages for which the cost exceeds the state's, the employing department's, or the participating school district's contribution under this Act, he shall authorize in writing and in a form satisfactory to the trustee a deduction from his monthly compensation or annuity the difference between the cost of coverages under the said group programs and the amount contributed therefor by the State of Texas or the employing department.]~~

(e) The trustee shall apply the amount of any employer contribution allocated to fund optional coverages to the excess of the cost of the basic and optional coverages for which the employee or annuitant has applied over the basic coverage contribution. Except as provided by Subsection (b) of this section, if an employee or annuitant applies for basic and optional coverages for which the cost exceeds the contributions for those coverages under this Act, the employee or annuitant shall authorize in writing in a form satisfactory to the trustee a deduction from the employee's or annuitant's monthly compensation or annuity equal to the difference between the cost of basic and optional coverages for which the employee or annuitant has applied and the employer contributions for basic and optional coverage. ~~[If an employee elects to participate in the cafeteria plan, he shall execute a salary reduction agreement under which~~

~~his monthly compensation will be reduced in an amount that is equal to the difference between the amount contributed for the coverages by the State of Texas, the employing department, or the participating school district and the cost of the coverages for which the employee is eligible to pay under the cafeteria plan. An employee who executes a salary reduction agreement for insurance coverages included in the cafeteria plan is considered to have elected to participate in the cafeteria plan and agreed to a salary reduction for the insurance coverages for subsequent plan years unless the participant, during an annual enrollment period specified by the trustee, explicitly elects not to participate for the next plan year in the insurance coverages. After electing not to participate in insurance coverages included in the cafeteria plan, an employee must, to reestablish participation for subsequent plan years in insurance coverages included in the cafeteria plan, execute a new salary reduction agreement. A salary reduction agreement for other benefits of the cafeteria plan must be executed annually, during the annual enrollment period specified by the trustee, for each plan year. The employee shall pay any remaining portion of the cost of benefits that is not covered by the state's, department's, or district's contributions and the salary reductions under the cafeteria plan by executing a payroll deduction agreement.]~~

(f) Except as provided by Subsection (h) of this section, if an employee or annuitant applies for voluntary coverages, the employee shall authorize in writing in a form satisfactory to the trustee a deduction from the employee's monthly compensation or annuity equal to the cost of the voluntary coverages.

(g) If an employee or annuitant refuses the coverages or benefits provided under this Act in writing in a form satisfactory to the trustee, the state and the employee's department may not make any contribution to the cost of any coverages or benefits for the employee or annuitant.

(h) If an employee elects to participate in the cafeteria plan, the employee must execute a salary reduction agreement under which the employee's monthly compensation will be reduced in an amount that is equal to the difference between the employer contributions for basic and optional coverages and the cost of the cafeteria plan coverages identified by the trustee as comparable to the basic and optional coverages for which the employee is eligible. The salary reduction agreement must also provide for an additional reduction in the employee's compensation equal to the cost of voluntary coverages for which the employee has applied. An employee who executes a salary reduction agreement for insurance coverage included in the cafeteria plan has elected to participate in the cafeteria plan and agreed to a salary reduction for the insurance coverages for subsequent plan years unless the participant, during an annual enrollment period specified by the trustee, elects in writing not to participate for the next plan year in the insurance coverages. An employee who has elected not to participate in the cafeteria plan insurance coverages may re-enroll by executing a new salary reduction agreement during a subsequent annual enrollment period. A salary reduction agreement for cafeteria plan benefits other than insurance coverages must be executed annually, during the annual enrollment period. The employee shall pay any



remaining portion of the cost of benefits that is not covered by the contributions for basic and optional coverages and the salary reduction under the cafeteria plan by executing a payroll deduction agreement.

SECTION 47. Subsection (a), Section 15, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

(a) On or before the first day of November next preceding each regular session of the legislature, the trustee shall certify to the Legislative Budget Board and budget division of the governor's office for information and review the amount necessary to pay the contributions of the State of Texas to the trustee for the coverages provided under this Act during the ensuing biennium. A state contribution may not be made for coverages under this Act selected by a person who receives a state contribution, other than as a spouse, dependent, or beneficiary, for coverages under a group benefits program provided by an institution of higher education, as that term is defined by Section 61.003, Education Code. This amount shall be included in the budget of the state which the governor submits to the legislature.

SECTION 48. Subsections (a) and (b), Section 16, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), are amended to read as follows:

(a) There is hereby created with the treasury of the State of Texas an Employees Life, Accident, and Health Insurance and Benefits Fund which shall be administered by the trustee. ~~The [Except as provided by Subsection (d) of this section, the]~~ contributions of employees, annuitants, ~~[participating school districts,]~~ and the state provided for under this Act shall be paid into the fund. The fund is available:

(1) without fiscal year limitation for all payments for any coverages provided for under this Act; and

(2) to pay expenses for administering this Act within the limitations that may be specified annually by the legislature.

(b) ~~Portions [Except as provided by Subsection (d) of this section, portions]~~ of the contributions made by employees, annuitants, ~~[participating school districts,]~~ and the state shall be regularly set aside in the fund as follows: a percentage determined by the trustee to be reasonably adequate to pay the administrative expenses made available by Subsection (a) of this section. The trustee, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves to be used by the trustee only for charges, claims, costs, and expenses under the program.

SECTION 49. Subsection (c), Section 17, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

(c) Each state department ~~[and each participating school district]~~ shall keep such records, make such certifications, and furnish the trustee with such information and reports as may be necessary to enable the trustee to carry out its functions under this Act.

SECTION 50. Subsection (a), Section 18, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance

Code), as amended by Chapters 242 and 391, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) The group benefits advisory committee is composed of 27 ~~[25]~~ voting members as provided by this section. The office of the attorney general, the office of the state treasurer, the office of the comptroller, the Railroad Commission of Texas, the General Land Office, and the Department of Agriculture are entitled to be represented by one member each on the committee, who may be appointed by the governing body of the state agency or elected by and from the employees of the agency, as determined by rule by the governing body of the agency. One employee shall be elected from each of the remaining ~~eight~~ seven largest state agencies that are governed by appointed officers by and from the employees of those agencies. One nonvoting member shall be the executive director of the Employees Retirement System of Texas. One member shall be an expert in employee benefit issues from the private sector, appointed by the governor. One member shall be an expert in employee benefits issues from the private sector, appointed by the lieutenant governor. One member shall be a retired state employee appointed by the trustee. One member shall be a state employee of a state agency other than one of the ~~eight~~ seven largest state agencies, appointed by the trustee. Not more than one employee from a particular state agency may serve on the committee. Each of the seven largest institutions of higher education, as determined by the number of employees on the payroll of an institution, shall elect one member of the committee from among persons who have each been nominated by a petition signed by at least 300 employees. Two ~~[members shall be employees of institutions of higher education appointed by the Texas Higher Education Coordinating Board. Five]~~ members shall be employees of institutions of higher education, other than the seven largest institutions of higher education, who are appointed by the Texas Higher Education Coordinating Board ~~[elected by and from the institutions of higher education]~~, but not more than one employee shall be from any one institution. ~~[The remaining members shall be elected by and from the employees of the other state agencies, excluding institutions of higher education, and from the employees of participating school districts in a manner consonant with the election for membership to the board of the Employees Retirement System of Texas, but not more than one employee shall be from any one agency or district.]~~ The members shall elect a presiding officer from their membership to serve a one-year term.

SECTION 51. Subsections (b) and (c), Section 19, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), are amended to read as follows:

(b) A surviving spouse of an employee or a retiree who is entitled to monthly benefits paid by a retirement system named in this Act may, following the death of the employee or retiree, elect to retain the spouse's authorized coverages and also retain authorized coverages for any dependent of the spouse, at the group rate for employees, provided such coverage was previously secured by the employee or retiree for the spouse or dependent, and the spouse directs the applicable retirement system to

deduct required contributions from the monthly benefits paid the surviving spouse by the retirement system. A surviving dependent of a retiree who was receiving monthly benefits paid by a retirement system named in this Act may, after the death of the retiree and if the retiree leaves no surviving spouse, elect to retain any coverage previously secured by the retiree, at the group rate for employees, until the dependent becomes ineligible for coverage for a reason other than the death of the member of the group. A dependent who makes an election under this subsection and who is entitled to monthly benefits from a retirement system named in this Act based on the service of the deceased retiree must direct the applicable retirement system to deduct required contributions for the coverage from the monthly benefits paid the surviving dependent by the retirement system.

(c) The surviving spouse of an employee or a retiree who designated or selected a time certain annuity option or a surviving dependent of a retiree who designated or selected a time certain annuity option, upon expiration of the annuity option may retain authorized coverages by advance payment of contributions to the Employees Retirement System of Texas under rules and regulations adopted by the trustee.

SECTION 52. Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended by adding Section 3 to read as follows:

Sec. 3. (a) A state agency may permit some or all of the employees of the agency to participate in an employer-sponsored program described by Section 457(f) of the Internal Revenue Code of 1986, including subsequent amendments of that law.

(b) Before a state agency begins sponsorship of a program under Subsection (a) of this section, the agency shall submit a proposal for the program to the Employees Retirement System of Texas for its review and comment.

(c) In this section, "state agency" means a board, office, commission, department, institution, court, or other agency in any branch of state government.

SECTION 53. Subsection (c), Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The fee for compulsory inspection of a motor vehicle other than a moped, to be made under this Section, shall be Ten Dollars and Fifty Cents (\$10.50). The fee for compulsory inspection of a moped, to be made under this Section, shall be Five Dollars and Seventy-five Cents (\$5.75). Five Dollars and Fifty Cents (\$5.50) of each fee shall be paid to the Department and shall, except as provided by ~~[Section 815.405, Government Code, or]~~ Section 382.0622, Health and Safety Code, be ~~deposited~~ placed in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law, after the deduction of Two Dollars and Twenty-five Cents (\$2.25) of each fee, which shall be deposited by the Department in the general revenue fund. The Department may require each official inspection station to make an advance payment of Five Dollars and Fifty Cents (\$5.50) for each inspection certificate furnished to it, ~~No[and the money so received shall, except as provided~~

~~by Section 815.405, Government Code, be placed in the Motor Vehicle Inspection Fund, and no~~ further payment to the Department shall be required upon issuance of the certificate. If such advance payment has been made, the Department shall refund to the inspection station the amount of Five Dollars and Fifty Cents (\$5.50) for each unissued certificate which the inspection station returns to the Department in accordance with rules and regulations promulgated by the Department. The Texas Natural Resource Conservation Commission shall refund to the Department Two Dollars (\$2.00) for each unused certificate returned to the Department by inspection stations licensed by the Department. An inspection station may waive the fee otherwise due from the owner of a vehicle inspected under this Section if the inspection station has rendered in advance to the Department the payment of Five Dollars and Fifty Cents (\$5.50) for the certificate applied to a vehicle with respect to which the owner's fee has been so waived.

SECTION 54. Subsection (c-4), Section 10, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-10, Vernon's Texas Civil Statutes), is amended to read as follows:

(c-4) On Monday of each week each County Tax Collector shall submit to the State Department of Highways and Public Transportation a carbon copy of the receipt issued for payment of each fee received in the preceding week for registration of a log loader vehicle under Section 2(1) of this Act ~~and all~~~~[On Monday of each week the County Tax Collector shall send to the Employees Retirement System of Texas an amount equal to four percent (4%) of the registration fees collected under Section 2(1) of this Act [and shall remit the remaining ninety-six percent (96%) to the Department. Money sent to the retirement system under this subsection shall be deposited in the law enforcement and custodial officer supplemental retirement fund].~~

SECTION 55. The following provisions are repealed:

(1) Subsection (d), Section 813.509, and Sections 815.005, 815.106, 815.305, 815.316, 815.320, 815.405, 839.104, and 840.009, Government Code;

(2) Paragraphs (19), (20), (21), and (22), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by Chapter 391, Acts of the 72nd Legislature, Regular Session, 1991;

(3) Section 3A, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by Chapter 391, Acts of the 72nd Legislature, Regular Session, 1991;

(4) Section 13C, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code);

(5) Subsection (e), Section 15, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code);

(6) Subsection (d), Section 16, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code); and

(7) effective September 1, 1995, Subsection (d), Section 813.506, Government Code.

SECTION 56. The Employees Retirement System of Texas may adopt rules to implement the changes in law made by this Act in the composition of the group benefits advisory committee under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

SECTION 57. The Legislative Budget Board shall perform a study of the law enforcement and custodial officer supplemental retirement fund and the program supported by that fund. The study shall include an examination of the membership in the program, including its potential for growth, and an examination of appropriate methods of financing the program. The board shall include its findings and recommendations as a result of the study in a report to the 74th Legislature.

SECTION 58. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1993.

(b) This section and Sections 2 and 29 of this Act take effect immediately. Sections 22 and 23 of this Act take effect September 1, 1995.

SECTION 59. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

#### Amendment No. 2

Amend C.S.S.B. 1181 as follows:

(1) Insert a new Section 10 in the bill to read as follows:

SECTION 10. Section 814.104(a), Government Code, is amended to read as follows:

(a) Except as provided by Section 814.102 or by rule adopted under Section 813.304(d) or 803.202(a)(2) [~~803.202(2)~~], a member who has service credit in the retirement system is eligible to retire and receive a service retirement annuity, if the member:

(1) is at least 60 years old and has 5 years of service credit in the employee class;

(2) is at least 55 years old and has 25 years of service credit in the retirement system; ~~or~~

(3) is at least 50 years old and has 30 years of service credit in the retirement system; ~~or~~

(4) became a member of the elected class after 1973, is at least 72 years old, and has at least 6 years of service credit in that class.

(2) Renumber existing Section 10 and subsequent sections accordingly and change cross-references to sections of the bill in existing Section 58 accordingly.

#### Amendment No. 3

Amend C.S.S.B. 1181 as follows:

(1) Insert a new Section 3 in the bill to read as follows:

SECTION 3. Section 812.203(e), Government Code, is amended to read as follows:

(e) If a member who originally retired with service credited at the time of that retirement only in the elected class of membership again retires, the person at the time of subsequent retirement may select an annuity based on service in the elected class as if the person were retiring for the first time. A member described by this subsection also may select a death benefit plan under Section 814.301 if eligible as provided by that section. The retirement system may not condition the selection of an annuity or the designation of a beneficiary by a person described by this subsection on the approval of any other person. If the person selects an annuity under Section 814.108(c)(3) or (c)(4), the retirement system shall reduce the number of months of guaranteed payment by the number of months for which an annuity was paid under the person's original retirement.

(2) Renumber existing Section 3 and subsequent sections accordingly and change cross-references to sections of the bill in existing Section 58 accordingly.

**Amendment No. 1 on Third Reading**

Amend C.S.S.B. 1181, on third reading, as follows:

(1) Insert a new Section 45 to the bill to read as follows and renumber the subsequent sections accordingly:

SECTION 45. Section 6, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

Sec. 6. EVIDENCE OF COVERAGE; BENEFIT CERTIFICATES. (a) The trustee shall provide each employee on request an evidence of coverage and a statement of charges, as described under Subsection (b) of this section for each health benefits plan available to the employee as basic coverage. The evidence of coverage and statement of charges must be provided not later than the date on which the employee is given the form to be used by the employee to select a health benefits plan. The trustee must approve each evidence of coverage and statement of charges issued for a health benefits plan subject to this article.

(b) An evidence of coverage must contain a clear and complete statement of:

(1) the medical services, health care services, and other benefits, if any, to which the enrollee is entitled under the plan;

(2) any limitation on the services, kinds of services, benefits, or kinds of benefits to be provided, including any deductible;

(3) where and in what manner information is available as to how services may be obtained; and

(4) a clear and understandable description of methods for resolving complaints.

(c) Any subsequent changes in the information provided by the evidence of coverage may be described in a separate document issued to the employee.

(d) Each state agency and each participating school district, on request by an employee, shall provide the employee a reasonable opportunity to examine a copy of any or all health benefits plans eligible for selection

by the employee. The information must be provided before the deadline for the employee to select a plan.

(e) The trustee shall provide for the issuance to each employee insured under this Act a certificate of insurance setting forth the benefits to which the employee is entitled, to whom the benefits are payable, to whom the claims shall be submitted, and summarizing the provisions of the policy principally affecting the employee.

(2) Insert a new section, appropriately numbered, to read as follows, and renumber the subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 6, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Section 45 of this Act, applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 1994. A policy that is delivered, issued for delivery, or renewed before January 1, 1994, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The amendments were read.

Senator Barrientos moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 1181 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Barrientos, Chair; Haley, West, Henderson, and Armbrister.

#### SENATE BILL 673 WITH HOUSE AMENDMENTS

Senator Moncrief called S.B. 673 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### Amendment

Amend S.B. 673 by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the continuation and operation of the State Board of Dental Examiners and to the regulation of the practice of dentistry and dental hygiene; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 4543a, Revised Statutes, is amended by amending Sections 1, 3, and 4 and adding Section 5 to read as follows:

Sec. 1. (a)(1) The State Board of Dental Examiners, also known as the Texas State Board of Dental Examiners, shall consist of 15 members. ~~Nine~~ ~~Ten~~ members must be reputable, practicing dentists who have resided in the State of Texas and have been actively engaged in the practice of dentistry for five years ~~next~~ preceding their appointment, none of whom shall be members of the faculty of any dental or dental hygiene school or college or of the dental or dental hygiene department of any medical school or college or shall have a financial interest in any such school or college. Two members must be reputable, practicing dental hygienists who have resided in the State of Texas and have been actively engaged in the practice of dental hygiene for five years ~~next~~ preceding the appointment, who are not licensed to practice dentistry in this state, and who shall not be a member of the faculty of any dental or dental hygiene school or college or of the dental or dental hygiene department of any medical school or college or shall have a financial interest in any such school or college. One member must be a certified dental technician who holds a dental technician certificate under Article 4551f, Revised Statutes. Three members must be members of the general public. A person is not eligible for appointment as a member if the person:

(A) has ever had his license to practice dentistry or dental hygiene revoked by the Board, provided that the revocation has not been subsequently overturned by final order of a court of law, based upon acts which, in the opinion of the Board, violated any provision of the statutes of the State of Texas relating to the practice of dentistry, dental hygiene, or any provision of this chapter; or

(B) is an adverse party in civil litigation against the Board.

(2) A person is not eligible for appointment as a public member if the person or the person's spouse:

(A) is ~~registered, certified, or~~ licensed by an occupational regulatory agency in the field of health care;

(B) is employed by or participates in the management of a business entity or other organization that is regulated by the Board or receives funds from the Board ~~[provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment];~~

(C) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization that is regulated by the Board or receives funds from the Board ~~[provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment]; [or]~~

(D) uses or receives a substantial amount of tangible goods, services, or funds from the Board, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses; or

(E) is employed by an individual serving as a member of the Board.

(b) Appointments to the Board shall be made without regard to the race, ~~color, disability~~ ~~[ereed]~~, sex, religion, ~~age~~, or national origin of the appointees. In making appointments under this section, the Governor shall



attempt to appoint members of different minority groups including females, African-Americans, Hispanic-Americans, Native Americans, and Asian-Americans.

(c) All members of the Board shall have full and identical privileges, except that only dentist members may participate in passing or failing applicants for a license to practice dentistry during the clinical portion of the Board examinations for dentists.

Sec. 3. (a) An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a member or employee of the Board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a Board member and may not be a Board employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person may not serve as a member of the Board or act as general counsel to the Board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the Board.

(d) For purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. [A member or employee of the Board may not be an officer, employee, or paid consultant of a trade association in the dental industry. A member or employee of the Board may not be related within the second degree by affinity or within the second degree by consanguinity, as determined under Article 5996b, Revised Statutes, to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry. A person who is required to register as a lobbyist under Chapter 305, Government Code, by virtue of the person's activities on behalf of a trade or professional association in the profession regulated by the Board, may not serve as a member of the Board or act as the general counsel to the Board.]

Sec. 4. (a) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Section 1 of this article for appointment to the Board;

(2) does not maintain during the service on the Board the qualifications required by Section 1 of this article for appointment to the Board;

(3) violates a prohibition established by Section 3 of this article;  
[or]

(4) fails to attend at least one-half of the regularly scheduled meetings that the member is eligible to attend during a calendar [held each] year, or

(5) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability.

(b) The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

(c) If the Executive Director of the Board has knowledge that a potential ground for removal exists, the Executive Director shall notify the Board of the ground. The President of the Board shall then notify the governor that a potential ground for removal exists [informed in writing of a violation that constitutes a ground under Subsection (a) of this section for the removal of a member of the Board, the Board shall include on the agenda of its next regularly scheduled meeting a review of the alleged violation. After review, the Board shall report its findings to the Governor for appropriate action consistent with Article XV, Section 9, of the Texas Constitution].

Sec. 5. (a) Each Board member shall comply with the Board member training requirements established by any other state agency that is given authority to establish the requirements for the Board.

(b) The Board shall provide to its members and employees, as often as necessary, information regarding their qualifications for office or employment under this article and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 2. Article 4543b, Revised Statutes, is amended to read as follows:

Art. 4543b. SUNSET PROVISION. The State Board of Dental Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2005 [1993].

SECTION 3. Sections 1 and 5, Article 4544, Revised Statutes, are amended to read as follows:

Sec. 1. (a) It shall be the duty of the Board to provide for the examination of [examine] all applicants for license to practice dentistry in this State. Each person applying for an examination shall pay to said Board a fee set by the Board and shall be granted a license to practice dentistry in this State upon his satisfactorily passing an examination provided for [given] by said Board on subjects and operations pertaining to dentistry which shall include Anatomy, Physiology, Anaesthesia, Biochemistry, Dental Materials, Diagnosis, Treatment Planning, Ethics, Jurisprudence, Hygiene, Pharmacology, Operative Dentistry, Oral Surgery, Orthodontia, Periodontia, Prosthetic Dentistry, Pathology, Microbiology, and such other subjects as are regularly taught in reputable Dental Schools as the Board may in its discretion require. The examination shall be given either orally or in writing, or by giving a practical demonstration of the applicant's skill, or by any combination of such methods or subjects as the Board may in its discretion require. The Board shall contract with an independent or regional testing service for any required clinical examination. In the event that the Board uses a regional testing service, the Board is authorized to contract for or otherwise use the services of

licensed dentists in this state for the purpose of providing assistance to the regional testing service. The Board shall have the written portion of the examination validated by an independent testing professional.

(b) The Board by rule shall set the number of and conditions for examination retakes. The Board may require an applicant who fails the examination to meet additional education requirements set by the Board.

Sec. 5. (a) The Board shall develop a mandatory continuing education program.

(b) The Board by rule shall:

(1) establish the minimum hours of continuing education required for license renewal;

(2) identify the key factors that lead to the competent performance of professional duties under this Act;

(3) develop a process to evaluate and approve continuing education courses; and

(4) develop a process to assess a licensee's participation and performance in continuing education courses that will enable the Board to evaluate the overall effectiveness of the program.

(c) The Board is authorized to assess the continuing education needs of licensees and may require licensees to attend continuing education courses specified by the Board [may recognize, prepare, or carry out continuing education programs for persons it licenses or certifies. Participation in the programs is voluntary].

SECTION 4. Article 4545a, Revised Statutes, is amended to read as follows:

Art. 4545a. LICENSING BY CREDENTIALS; LICENSING OF FOREIGN-TRAINED DENTISTS [RECIPROCAL ARRANGEMENTS]

Sec. 1. (a) The State Board of Dental Examiners [may, in the discretion of the Board in each instance], upon payment by the applicant [for registration] of a fee set by the Board, shall grant a license to practice dentistry or dental hygiene to any reputable dentist or dental hygienist who:

(1) is licensed in good standing as a dentist or dental hygienist in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this Act;

(2) has not been the subject of final or pending disciplinary action in any state in which the dentist or dental hygienist is or has been licensed;

(3) has graduated from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association;

(4) has passed a national or other examination recognized by the Board relating to dentistry or dental hygiene;

(5) has successfully completed the Board's jurisprudence examination;

(6) has submitted documentation of current cardiopulmonary resuscitation certification; and

(7) has practiced dentistry or dental hygiene for a minimum of five years immediately prior to applying, has been a dental educator for a minimum of five years, or has completed two years of obligated service in the state under the National Health Service Corps or other federal scholarship or loan repayment program.

(b) The Board must complete the processing of an application for a license not later than the 180th day after all documentation and examination results required by this section have been received by the Board or grant a license to the applicant.

Sec. 2. (a) The Board, upon payment by the applicant of a fee set by the Board, shall grant a license to a dentist or dental hygienist who has not graduated from a dental or dental hygiene school accredited by the Commission on Dental Accreditation of the American Dental Association if:

(1) the dentist or dental hygienist has practiced for a minimum of five years immediately prior to applying;

(2) the dentist or dental hygienist has not been the subject of final or pending disciplinary action in any jurisdiction in which the dentist or dental hygienist is or has been licensed;

(3) the Board, through a procedure adopted by rule, has determined that the educational qualifications are equivalent to those required to practice dentistry in the state; and

(4) the dentist or dental hygienist has completed all examinations required by the Board for licensure.

(b) The Board must complete the processing of an application for a license not later than the 180th day after all documentation, the determination of educational equivalency, and examination results required by this section have been received by the Board or grant a license to the applicant [license to practice dentistry to any reputable dentist who is a graduate of a reputable dental college or has qualified on examination for the certificate of dental qualification for a commission as a dentist in the Armed Forces of the United States and to licentiates of other States or territories having requirements for dental registration and practice equal to those established by this law. Applications for license under the provisions of this Article shall be in writing and upon a form to be prescribed by the State Board of Dental Examiners. Said application shall be accompanied by a diploma or a photograph thereof, awarded to the applicant by a reputable dental college, or a certified transcript of the certificate or license or commission issued to the applicant by the Armed Forces of the United States, or by a license or a certified copy of license to practice dentistry, lawfully issued to the applicant by some other State or territory; and shall also be accompanied by an affidavit from an executive officer of the Armed Forces of the United States, the President or Secretary of the Board of Dental Examiners who issued the said license, or by a legally constituted dental registration officer of the State or territory in which the certificate or license was granted upon which the applications for dental registration in Texas is based. Said affidavit shall recite that the accompanying certificate or license has not been cancelled or revoked except by honorable discharge by the Armed Forces of the United States,

~~and that the statement of qualifications made in the application for dental registration in Texas is true and correct. Applicants for license under the provisions of this Article shall subscribe to an oath in writing which shall be a part of said application, stating that the license, certificate, or authority under which the applicant practiced dentistry in the State or territory from which the applicant removed, was at the time of such removal in full force and not suspended or cancelled; that the applicant is the identical person to whom the said certificate, license, or commission and the said dental diploma were issued, and that no proceeding was pending at the time of such removal, or is at the present time pending against the applicant for the cancellation of such certificate, license or authority to practice dentistry in the State or territory in which the same was issued, and that no prosecution was then, or is at the time of the application, pending against the applicant in any State or Federal Court for any offense which under the law of Texas is a felony].~~

SECTION 5. Subsection (a), Section 1, Article 4548f, Revised Statutes, is amended to read as follows:

(a) It shall be unlawful for any person, firm, or corporation to engage in false, misleading, or deceptive advertising arising out of or in connection with the practice of dentistry. The Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the person's personal appearance or use of the person's voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name, except a rule may require that an advertisement under a trade name include the name or names of the dental owner or owners of the practice. [Provided, however, nothing herein shall be construed to restrict or prohibit:
  - [(1) the type of advertising medium;
  - [(2) the size or duration of any advertisement;
  - [(3) the truthful advertising of prices for any type of dental services;
  - [(4) the use of agents or employees in advertising;
  - [(5) a person's personal appearance or use of his personal voice in an advertisement.]

SECTION 6. Article 4548h, Revised Statutes, is amended to read as follows:

Art. 4548h. COMPLAINTS; REFUSING, REVOKING, CANCELLING, AND SUSPENDING LICENSES

Sec. 1. (a) [AUTHORITY GRANT LICENSE.] The State Board of Dental Examiners shall keep an information file about each complaint filed with the Board. The Board's information file shall be kept current and contain a record for each complaint of:

(1) all persons contacted in relation to the complaint;  
(2) a summary of findings made at each step of the complaint process;

(3) an explanation of the legal basis and reason for a complaint that is dismissed; and

(4) other relevant information.

(b) If a written complaint is filed with the Board that the Board has authority to resolve, the Board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The Board by rule shall adopt a form to standardize information concerning complaints made to the Board. The Board by rule shall prescribe information to be provided to a person when the person files a complaint with the Board.

(d) The Board shall provide reasonable assistance to a person who wishes to file a complaint with the Board.

(e) The Board shall adopt rules concerning the investigation of a complaint filed with the Board. The rules adopted under this subsection shall:

(1) distinguish between categories of complaints;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) require that the Board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) require that all investigators used by the Board shall be state employees.

(f) The Board shall dispose of all complaints in a timely manner. The Board shall establish a schedule for conducting each phase of a complaint that is under the control of the Board. The schedule shall be kept in the information file for the complaint. A change in the schedule must be noted in the complaint information file.

(g) The Executive Director of the Board shall notify the Board of the number of complaints that extend beyond a two-year time frame for resolution. The Executive Director shall provide the Board with an explanation of the reasons that the complaints have not been resolved. The notice and explanation required shall be provided to the Board periodically at regularly scheduled Board meetings.

(h) The Board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 13(e), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(2) informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments.

(i) Rules adopted under this section must provide the complainant, where applicable and permitted by law, an opportunity to be heard, must provide the licensee an opportunity to be heard, and must require the presence of an attorney to advise the Board or the Board's employees. The attorney must be a member of the Board's legal staff, if the Board has a legal staff. If the Board does not have a legal staff, the attorney must be an employee of the office of the attorney general.

(j) The Board by rule shall develop a system for monitoring license holders' compliance with the requirements of this Act. Rules adopted under this section shall include procedures for monitoring a license holder who is ordered by the Board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public [be and they are hereby authorized to refuse to grant a license to practice dentistry to any person or persons who have been guilty, in the opinion of said Board, of violating any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry, or any provisions of Chapter 9, Title 71, Revised Civil Statutes of Texas, 1925, as amended, within twelve (12) months prior to the filing of an application for such license].

Sec. 2. ~~[REVOCATION, CANCELLATION, OR SUSPENSION OF LICENSE:]~~ (a) The [State] Board ~~[of Dental Examiners]~~ shall revoke, cancel or suspend any license or licenses that may have been issued by such Board, place on probation a person whose license has been suspended, or reprimand a licensee if in the opinion of a majority of such Board, any person or persons to whom a license has been issued by said Board to practice dentistry or dental hygiene in this State, shall have, after the issuance of such license, violated any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry or dental hygiene in this State, or any of the provisions of Chapter 9, Title 71, Revised Civil Statutes of Texas, 1925, as amended, or any amendments that may hereafter be made thereto, or a rule of the Board. All revocations, cancellations or suspensions of licenses by the ~~[Texas State] Board [of Dental Examiners]~~ shall be made in the manner provided by the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(b) All complaints to be considered by the Board under this article shall be made in writing and ~~[, subscribed and sworn to by the person presenting such complaint, which complaint]~~ shall set out the alleged violations of such Statutes or rules ~~[and declaring it to be the opinion of the person presenting such complaint that the person or persons so accused have so violated said Statutes].~~

(c) All complaints under this article as received shall be filed with the Secretary of the Board or an authorized employee of the Board. All complaints filed with the Board shall be reviewed to determine jurisdiction, and if jurisdiction exists ~~[When a complaint is made by a member of the Board, its agents or employees],~~ the Secretary of the Board or designee ~~[shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed~~

~~complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes. When a complaint is made by others than the members of the Board, its agents or employees, the Board or its duly authorized representative] shall cause an investigation of such complaint to be made to determine the facts in such case. If[, and if] the facts as determined by such investigation[, in the discretion of the Secretary of the Board,] justify further actions, the disposition of the complaint shall comply with this article [the docketing of such complaint for hearing before the Board; then the Secretary of the Board shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes].~~

(d) If a licensee suspension is probated, the Board may require the practitioner:

(1) to report regularly to the Board on matters that are the basis of the probation;

(2) to limit practice to the areas prescribed by the Board; or

(3) to continue or review professional education until the practitioner attains a degree of skill satisfactory to the Board in those areas that are the basis of the probation.

(e) If the Board or an executive committee of the Board determines from the evidence or information presented to it that a person licensed under this Act by continuation in practice would constitute a clear, imminent, or continuing threat to a person's physical health or well-being, the Board or the executive committee of the Board shall temporarily suspend the license of that person. The license may be suspended under this section without notice or hearing on the complaint, provided institution of proceedings for a hearing held by the State Office of Administrative Hearings is initiated simultaneously with the temporary suspension. A hearing shall be held not later than fourteen (14) days after the date of the suspension unless a continuance is requested by the licensee. A second hearing on the suspension shall be held by the State Office of Administrative Hearings within sixty (60) days after the date the suspension was ordered or after the date specified in the continuance requested by the licensee. The time requirements in this subsection must be adhered to or the suspension is lifted without further order or action.

(f) All complaints considered by the Board must be filed with the Board within four (4) years after the date on which the act occurred or within four (4) years after a complainant discovered or in the exercise of reasonable diligence should have discovered, the occurrence of the act.

Sec. 3. ~~[APPEAL TO COURT.]~~ (a) A person aggrieved by a ruling, order, or decision of the Board under this article has the right to appeal to a district court in the county of his residence or in the county where the alleged offense occurred within thirty (30) days from the service of notice of the action of the ~~[State] Board [of Dental Examiners].~~



(b) The appeal having been properly filed, the court may request of the Board and the Board on receiving the request shall within thirty (30) days prepare and transmit to the court a certified copy of its entire record in the matter in which the appeal has been taken. The appeal shall be tried in accordance with the Texas Rules of Civil Procedure.

(c) ~~[In the event an appeal is taken by a licensee, the appeal shall act as a supersedeas providing the appealing party files a bond as the court may direct, and the court shall dispose of the appeal and enter its decision promptly.]~~

~~[(d)]~~ If an aggrieved person fails to perfect an appeal as provided in this section, the Board's ruling shall become final.

(d) ~~[(e)]~~ Review by the court shall be by the substantial evidence rule and not de novo.

Sec. 4. ~~[ADDITIONAL OFFICES.]~~ No statute relating to the practice of dentistry in this State shall be construed to prohibit any duly authorized, licensed, and registered dentist from maintaining any number of offices in this State, provided said dentist assumes full legal responsibility and liability for the dental services rendered in such offices and further provided that the dentist complies with such requirements as may be prescribed by the Board in its Rules ~~[and Regulations]~~ for the purpose of protecting the health and safety of the patients receiving dental care at such offices.

SECTION 7. Article 4548i, Revised Statutes, is amended to read as follows:

Art. 4548i. PUNISHMENT. (a) Any person who shall violate any provision of Chapter Nine, Title 71, Revised Statutes, commits an offense. An offense under this section is a Class A misdemeanor. If it is shown at a trial of an offense under this section that the defendant was previously convicted under this section of any misdemeanor or the offense involves practicing without an appropriate license issued by the Board, the offense is a felony of the third degree. Each day of such violation shall be a separate offense.

(b) Any person who shall violate a provision of Chapter Nine, Title 71, Revised Statutes, is liable to the state for a civil penalty in an amount not to exceed \$2,500. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. On request of the Board, the attorney general or the county attorney or district attorney of the county in which the violation is alleged to have occurred shall file suit to collect the penalty. A civil penalty collected under this section shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION 8. Chapter 9, Title 71, Revised Statutes, is amended by adding Article 4548j to read as follows:

Art. 4548j. ADMINISTRATIVE PENALTY. (a) The Board may impose an administrative penalty against a person licensed or regulated under this Act who violates this Act or a rule or order adopted under this Act.

(b) The penalty for a violation may be in an amount not to exceed \$5,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The Executive Director of the Board or a subcommittee of the Board shall determine the amount of the penalty based on a standardized penalty schedule. Any subcommittee of the Board shall consist of at least one public member of the Board. The penalty schedule shall be developed by the Board, through rule, and shall be based on the following criteria:

(1) the seriousness of the violation, including but not limited to the nature, circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health, safety, or welfare of the public;

(2) the economic damage to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) An Executive Director or a subcommittee of the Board who determines that a violation has occurred may issue to the Board a report that states the facts on which the determination is based and the director's or the subcommittee's recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

(e) Within 14 days after the date the report is approved by the Board, the Executive Director shall give written notice of the report to the person. The notice may be given by certified mail. The notice must include a notice of all the alleged violations and a statement of the amount of the recommended penalty and must inform the person that the person has a right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Within 20 days after the date the person receives the notice, the person in writing may accept the determination and recommended penalty of the Executive Director or subcommittee or may make a written request for a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(g) If the person accepts the determination and recommended penalty of the Executive Director or subcommittee, the Board by order shall approve the determination and impose the recommended penalty.

(h) If the person requests a hearing or fails to respond timely to the notice, the Executive Director shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the Board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty. Based on the findings of fact, conclusions of law, and proposal for a decision, the Board by order may find that a violation has occurred and impose a penalty or may find that no violation occurred.

(i) The notice of the Board's order given to the person under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments must

include a statement of the right of the person to judicial review of the order.

(j) Within 30 days after the date the Board's order is final as provided by Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments, the person shall:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of penalty;  
or

(3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of penalty.

(k) Within the 30-day period, a person who acts under Subsection (i)(3) of this section may:

(1) stay enforcement of penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the Board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the Executive Director by certified mail.

(l) An Executive Director who receives a copy of an affidavit under Subsection (k)(2) of this section may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the amount of the penalty and to give the supersedeas bond.

(m) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the Executive Director may refer the matter to the attorney general for collection of the amount of the penalty.

(n) Judicial review of the order of the Board:

(1) is instituted by filing a petition as provided by Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(2) is under the substantial evidence rule.

(o) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain

the occurrence of the violation, the court shall order that no penalty is owed.

(p) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty and if that amount is reduced or is not upheld by the court, the court shall order that the appropriate amount plus accrued interest be remitted to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

(q) A penalty collected under this section shall be remitted to the comptroller for deposit in the Dental Registration Fund in the general revenue fund. These funds may only be used to fund an approved peer assistance program.

(r) All proceedings under this section are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments.

(s) Nothing in this article shall be construed as preventing the Board from assessing an administrative penalty using an informal proceeding governed by the requirements in Article 4548h, Revised Statutes.

SECTION 9. Article 4549, Revised Statutes, is amended to read as follows:

**Art. 4549. REFUSAL TO EXAMINE OR ISSUE LICENSE: JUDICIAL SUSPENSIONS AND REVOCATIONS ~~DISCIPLINARY ACTIONS~~**

Sec. 1. The ~~[Texas]~~ State Board of Dental Examiners shall have authority to refuse to examine any person or refuse to issue a dental license or a dental hygienist license to any person for any one or more of the following causes:

(a) Proof of presentation to the Board of any dishonest or fake evidence of qualification, or being guilty of any illegality, fraud or deception in the process of examination, or for the purpose of securing a license or certificate.

(b) Proof of chronic or habitual intoxication or addiction to drugs on the part of the applicant.

(c) Proof that the applicant has been guilty of dishonest or illegal practices in or connected with the practice of dentistry or dental hygiene.

(d) Proof of conviction of the applicant of a felony involving moral turpitude under the laws of this State or any other State or of the United States.

(e) Proof that the applicant violated any of the provisions of the Statutes of the State of Texas relating to the practice of dentistry or any provisions of Chapter 9, Title 71, Revised Statutes, and its subsequent amendments, within 12 months before the filing of an application for the license.

Sec. 2. ~~[The provisions of this Article relating to the suspension or revocation of a license do not apply to a person convicted of a felony~~

~~under Chapter 481, Health and Safety Code, Section 485.033, Health and Safety Code, or Chapter 483, Health and Safety Code.~~

[Sec. 3.] The [Texas] State Board of Dental Examiners [~~and the District Courts of this State~~] shall have [concurrent] jurisdiction and authority, after notice and hearing [~~as hereinafter provided~~], to suspend or revoke a dental license or a dental hygienist license, to place on probation a person whose license or certificate is suspended, or to reprimand a licensee or certificate holder, and in addition to or in lieu of said suspension, revocation, probation, or reprimand, to assess an administrative penalty as provided for in Article 4548j, Revised Statutes, [~~a fine in an amount not to exceed \$2,500 payable to the dental registration fund~~] for any one or more of the following causes:

(a) Proof of insanity of the holder of a license or certificate, as adjudged by the regularly constituted authorities.

(b) Proof of conviction of the holder of a license or certificate of any felony or a misdemeanor involving fraud under the laws of this State or any other State or of the United States.

(c) That the holder thereof has been or is guilty of dishonorable conduct, malpractice or gross incompetency in the practice of dentistry or dental hygiene.

(d) That the holder thereof has been or is guilty of any deception or misrepresentation for the purpose of soliciting or obtaining patronage.

(e) That the holder thereof procured a license or certificate through fraud or misrepresentation.

(f) That the holder thereof is addicted to habitual intoxication or the use of drugs.

(g) That a dentist employs or permits or has employed or permitted persons to practice dentistry in the office or offices under his control or management, who were not licensed to practice dentistry.

(h) That the holder thereof has failed to use proper diligence in the conduct of his practice or to safeguard his patients against avoidable infections.

(i) That the holder thereof has failed or refused to comply with any State law relating to the regulation of dentists or dental hygienists.

(j) That the holder thereof has failed or refused to comply with the adopted and promulgated rules and regulations of the Board.

(k) That the holder thereof is physically or mentally incapable of practicing with safety to dental patients.

(l) That the holder thereof has been negligent in the performance of dental services which injured or damaged dental patients.

(m) Proof of suspension, revocation, probation, reprimand, or other restriction by another State of a license or certificate to practice dentistry or dental hygiene based upon acts by the licensee or certificate holder enumerated in this section.

(n) That the holder thereof has knowingly provided or agreed to provide dental care in a manner which violates any provision of federal or State law regulating a plan whereby any person undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any dental care services or regulating the business of insurance.

Sec. 3 [4]. (a) If the Board proposes to refuse to examine a person, [~~to suspend or revoke a license or certificate, to place on probation a person whose license or certificate has been suspended, or to reprimand a licensee or certificate holder;~~] the person is entitled to a hearing before the Board.

(b) The hearing under this section and an appeal from the hearing under this section are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

~~[Sec. 5. (a) All complaints to be considered by the Board shall be made in writing, subscribed and sworn to by the person presenting such complaint, which complaint shall set out the alleged violations of such Statutes or rules and declaring it to be the opinion of the person presenting such complaint that the person or persons so accused have so violated said Statutes or rules.~~

~~[(b) All complaints as received shall be filed with the Secretary of the Board or an authorized employee of the Board. When a complaint is made by a member of the Board, its agents or employees, the Secretary of the Board or its authorized employee shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered or certified mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or rules. When a complaint is made by others than the members of the Board, its agents or employees, the Board or its duly authorized representative shall cause an investigation of such complaint to be made to determine the facts in such case, and if the facts as determined by such investigation, in the discretion of the Secretary of the Board or its authorized employee, justify the docketing of such complaint for hearing before the Board, then the Secretary of the Board or its authorized employee shall cause such complaint to be docketed on its records in the name of the Texas State Board of Dental Examiners versus the person against whom such complaint has been made, and shall mail a copy of such docketed complaint by registered or certified mail to the accused person under the jurisdiction of the Texas State Board of Dental Examiners charged with having violated such Statutes or rules.~~

~~[(c) The Board shall keep an information file about each complaint filed with the Board relating to a licensee or certificate holder. If a written complaint is filed with the Board relating to a licensee or certificate holder, the Board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.~~

~~[(d) The Board may request a dental peer review or grievance committee to submit information to the Board about the activities of the committee.~~

~~[Sec. 6. If said Board shall make and enter any order revoking or suspending any person's license or certificate, placing a person on probation, or reprimanding a person as hereinabove provided, the person~~

~~may take an appeal to the District Court of the County of the residence of the person by filing an appropriate petition for such purpose. Said cause shall be placed on the docket of said Court in the name of the party or parties filing same, as plaintiff, and the Texas State Board of Dental Examiners, as defendants.~~

~~[Sec. 7. Proceedings before the District Courts of this State shall be as follows:~~

~~[It shall be the duty of the several District and County Attorneys of this State, on the request of any member of the Texas State Board of Dental Examiners or by complaint presented to any District Court of the State or county in which such alleged offense occurred, to file and prosecute appropriate judicial proceedings in the name of the State against the person or persons alleged to have so violated such Statute. Such complaint shall be made in writing and filed in the District Court of the State or county in which the alleged offense occurred, and such complaint shall distinctly set forth the charges and grounds thereof and shall be subscribed and sworn to. When such complaint is made by any County or District Attorney, as herein provided, it shall be subscribed and sworn to by the prosecutor and shall be filed with the Clerk of the Court. The Court, upon the filing of said complaint, shall order the accused dentist to show cause why his license to practice dentistry in this State shall not be suspended or revoked:~~

~~[Citation therein shall be issued in the name of the State of Texas and in manner and form as in other cases and the same shall be served upon the defendant at least twenty (20) days before the trial date set therein. Upon the return of said citation executed, if the defendant shall appear and deny the charge, the cause shall be docketed for trial and conducted in the name of the State of Texas against the defendant. A jury of twelve (12) persons shall be summoned as in cases during term time of the court when no regular jury is available and as prescribed by law and shall be impannelled unless waived by the defendant, and the cause shall be tried in like manner as in other civil cases. If the said accused dentist be found guilty or shall fail to appear and deny the charge after being cited as aforesaid, the Court may by proper order entered on the minutes, suspend his license for a time or revoke and cancel it entirely and may also give proper judgment of cost, from which order an appeal may be taken to the Court of Civil Appeals as in other civil cases.]~~

SECTION 10. Article 4549b, Revised Statutes, is amended to read as follows:

Art. 4549b. CONSUMER INFORMATION. (a) The Board shall prepare information of public ~~[consumer]~~ interest describing the ~~[regulatory]~~ functions of the Board and ~~[describing]~~ the Board's procedures by which ~~[consumer]~~ complaints are filed with and resolved by the Board. The Board shall make the information available to the general public and appropriate state agencies.

(b) The Board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the Board for the purpose of directing complaints to the Board. The Board may provide for that notification:

(1) on each registration form, application, brochure, or written contract for services of an individual or entity regulated under this Act;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated under this Act; or

(3) in a bill for service provided by an individual or entity regulated under this Act.

(c) The Board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law.

SECTION 11. Sections 1, 2, and 4, Article 4550a, Revised Statutes, are amended to read as follows:

Sec. 1. It shall be the duty of all persons holding a dental license or dental hygienist license issued by the State Board of Dental Examiners, to annually apply and to be registered as such practitioners with the State Board of Dental Examiners on or before March 1st of each calendar year. Each person so registering shall pay in connection with such annual registration for the receipt hereinafter provided for, a fee as determined by said Board according to the needs of said Board, such payment to be made by each person to such Board, and every person so registering shall file with said Board a written application setting forth such facts as the Board may require. A person holding a dental hygienist license must attach to the application proof of current certification ~~[that the person has successfully completed a course]~~ in cardiopulmonary resuscitation given or approved by the American Heart Association or American Red Cross ~~[not earlier than one year before the date on which the license must be renewed]~~ or, in the event that the person is not physically capable of successfully completing such training, a written statement executed by either a licensed physician or an instructor in cardiopulmonary resuscitation approved by the American Heart Association or American Red Cross that describes such physical incapacity. In lieu of this requirement for annual cardiopulmonary resuscitation certification, a dental hygienist licensed by the Texas State Board of Dental Examiners and residing in a country other than the United States may satisfy this requirement by submitting proof of residence upon the annual date of renewal. Upon receipt of such applications, accompanied by such fees, said Board, after ascertaining either from its records or other sources deemed by it to be reliable, that the applicant holds a valid license or certificate to practice in this State, shall issue to the applicant an annual registration certificate or receipt certifying that he has filed such application and has paid the required fee; provided, that the filing of such application, the payment of such fee, and the issuance of such receipt therefor, shall not entitle the holder thereof to lawfully practice within the State of Texas unless he in fact holds a license or certificate as such practitioner issued by the State Board of Dental Examiners, as provided by this law, and unless said license or certificate is in full force and effect; and provided further, that in any prosecution for unlawful practice such receipt showing payment of the annual registration fee required by this chapter shall not be treated as evidence that the holder thereof is lawfully entitled to practice.



Sec. 2. (a) If any person required to register as a practitioner under the provisions hereof shall fail or refuse to apply for such registration and pay such fee on or before the specified date ~~[March 1st]~~ of each calendar year, as hereinabove set forth, his license or certificate to practice issued to him, shall thereafter stand suspended so that thereafter in practicing he shall be subject to the penalties imposed by law upon any person unlawfully practicing.

(b) A person may renew an unexpired license or certificate by paying to the Board before the expiration of the license or certificate the required renewal fee.

(c) If a person's license or certificate has been expired for not longer than ninety (90) days, the person may renew it by paying to the Board the required renewal fee and a fee that is one-half of the examination fee for the license or certificate.

(d) If a person's license or certificate has been expired for longer than ninety (90) days but less than one year ~~[two years]~~, the person may renew it by paying to the Board all unpaid renewal fees and a fee that is equal to the examination fee for the license or certificate.

(e) If a person's license or certificate has been expired for one year ~~[two years]~~ or longer, the person may not renew it, except as provided by Section 2A of this article. The person may obtain a new license or certificate by submitting to reexamination and complying with the requirements and procedures for obtaining an original license or certificate. However, the Board may adopt rules providing for renewal without reexamination of an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding application. The person must pay to the Board a fee that is equal to the examination fee for the license.

(f) At least thirty (30) days before the expiration of a person's license, the [Fhe] Board shall send written notice of the impending license expiration to the person at the licensee's last known address according to the records of the Board [must notify each licensee in writing of that licensee's impending license expiration 30 days prior to said expiration and shall attempt to obtain from the licensee signed receipt confirming receipt of notification].

(g) Provided, however, that the requirements governing the payment of the annual registration fees and penalties for late registration shall not apply to licensees who are on active duty with the Armed Forces of the United States of America, and are not engaged in private or civilian practice.

(h) The Board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on March 1 shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Sec. 4. (a) To aid the Board in performing its duties, the Board is hereby authorized to employ an Executive ~~[Secretary or]~~ Director who shall receive a salary to be fixed by the Board, and who shall make and file a surety bond in a sum not less than Five Thousand Dollars (\$5,000) conditioned for the faithful performance of all the duties of ~~the~~ ~~[his]~~ office and the safekeeping and proper disbursement of said "Dental Registration Fund" and all other funds received by the Executive Director ~~[coming into his hands]~~; such salary shall be paid out of said "Dental Registration Fund" and shall not be in any way a charge upon the general revenue of the State. The Executive Director, with the consent of the Board, may employ an Assistant Executive Director who shall perform all the duties required by law to be performed by the Executive Director when said Executive Director is absent or unable to act for any reason. Said Board shall employ and provide such other employees as may be needed to assist the Executive ~~[Secretary or]~~ Director in performing the Executive Director's ~~[his]~~ duties and in carrying out the purposes of this Act, provided that their compensation shall be paid only out of the said "Dental Registration Fund." All disbursements from "Dental Registration Fund" shall be made only upon the written approval of the President of the Board, Secretary of said Board, or an employee designated by the Board and upon warrants drawn by the Comptroller to be paid out of said fund.

(b) The Executive Director or the Executive Director's ~~[his]~~ designee shall develop ~~[within one year of the effective date of this Act]~~ an intraagency career ladder program. The program shall require, ~~one part of which shall be~~ the intraagency posting of all nonentry level positions concurrently with ~~[for at least ten (10) days prior to]~~ any public posting.

(c) The Executive Director or the Executive Director's ~~[his]~~ designee shall develop ~~[within one year of the effective date of this Act]~~ a system of annual performance evaluations. All ~~[based on measurable job tasks. Within two years of the effective date of this Act all]~~ merit pay for Board employees ~~[authorized by the Executive Director]~~ must be based on the system established under ~~[by]~~ this section.

(d) The Executive Director or the Executive Director's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of the Commission on Human Rights Act (Article 5221K, Vernon's Texas Civil Statutes) and its subsequent amendments;

(2) a comprehensive analysis of the Board work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underutilization in the board work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underutilization.

(e) A policy statement prepared under Subsection (d) of this section must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subdivision (1) of Subsection (d) of this section, and be filed with the governor's office.

(f) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (e) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

(g) The Board shall develop and implement policies that clearly define the respective responsibilities of the Board and the staff of the Board.

(h) The Board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the Board's programs. The Board shall also comply with federal and state laws for program and facility accessibility.

(i) The Board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the Board and to speak on any issue under the jurisdiction of the Board.

SECTION 12. Subsection (c), Section 3, Article 4550a, Revised Statutes, is amended to read as follows:

(c) The [On or before the first day of January each year, the] Board shall file annually with [make in writing a complete and detailed report accounting for all funds received and disbursed by the Board/commission during the preceding year to] the governor and with [to] the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the Board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

SECTION 13. Section (b), Article 4551, Revised Statutes, is amended to read as follows:

(b) The Board shall establish reasonable and necessary fees so that the fees, in the aggregate, produce sufficient revenue to cover the cost of administering [for the administration of] this Act [in amounts not to exceed:

[ (1) dental examination fee: \$150;

[ (2) dental hygiene examination fee: \$75;

[ (3) annual renewal fees:

[dentists: \$100;

[dental hygienists: \$70;

[dental labs: \$125;

[ (4) reciprocal registration fee: \$200;

[ (5) duplicate license fee: \$15;

[ (6) duplicate registration certificates: \$15].

The Board may not set a fee at an amount less than the amount of that fee on September 1, 1993 [shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement].

SECTION 14. Section (b), Article 4551d, Revised Statutes, is amended to read as follows:

(b) A rule pertaining to the regulation of licensed dental hygienists must be proposed by the Dental Hygiene Advisory Council before being

~~adopted by the Board. This does not prevent the Board from proposing rules to the advisory council for consideration. In addition, the Board may adopt, without the approval of the advisory council, any rule under Section (c) of this Article. [If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the Board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the Board receives the committee's statements.]~~

SECTION 15. Section 4A, Chapter 475, Acts of the 52nd Legislature, 1951 (Article 4551e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4A. DENTAL HYGIENE ADVISORY COUNCIL [~~COMMITTEE~~]. (a) The Dental Hygiene Advisory Council [~~Committee~~] is hereby established.

(b) The Dental Hygiene Advisory Council [~~Committee~~] shall ~~be composed [consist] of three [not more than eight] dental hygienists appointed by the governor to staggered six-year terms [Texas State Board of Dental Examiners. A member of such advisory committee shall serve for a term of three years expiring on May 1 of the third year of the member's term. After the expiration of a member's term, the member shall continue to serve until the date a successor is appointed and has qualified. A person may not be appointed to serve for more than one full term].~~

(c) The advisory council [~~committee~~] shall advise the [~~Texas~~] State Board of Dental Examiners on matters relating to dental hygiene. In order to assure that the advisory council [~~committee~~] is able to exercise properly its advisory powers, the State Board of Dental Examiners shall provide the advisory council [~~committee~~] with timely notice of all Board meetings and a copy of the minutes of all Board meetings. In addition, the Board shall not adopt any rule relating to the practice of dental hygiene unless said proposed rule has been submitted to the advisory council [~~committee~~] for review and ~~has been approved by the advisory council [comment at least thirty (30) days] prior to the adoption of said rule.~~

(d) A member of the advisory council [~~committee~~] is entitled to the compensatory per diem set by the General Appropriations Act for each day that the member engages in council [~~committee~~] business. Except for transportation expenses, a member is not entitled to reimbursement for travel expenses. A member is entitled to reimbursement for transportation expenses as provided by the General Appropriations Act.

SECTION 16. Section 5, Chapter 475, Acts of the 52nd Legislature, 1951 (Article 4551e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. EXAMINATION. The [~~Texas~~] State Board of Dental Examiners shall hold meetings at such times and places as the Board shall designate for the purpose of examining qualified applicants for licensure as dental hygienists in this State. All applicants for examination shall pay a fee set by the Board to said Board as determined by said Board according to its needs and shall apply upon forms furnished by the Board

and shall furnish such other information as the Board may in its discretion require to determine any applicant's qualifications. An applicant must attach to the application proof that the applicant has successfully completed a current course in cardiopulmonary resuscitation given or approved by the American Heart Association or American Red Cross ~~(not earlier than one year)~~ before the date on which the applicant submits the application or, in the event that the applicant is not physically capable of successfully completing such training, a written statement executed by either a licensed physician or an instructor in cardiopulmonary resuscitation approved by the American Heart Association or American Red Cross that describes such physical incapacity. The Board shall have authority to employ the services of such examiners and clerks as may be needed to aid the Board in the performance of such duties. The examination shall be taken by all applicants on such subjects and operations pertaining to dentistry and dental hygiene which shall include Dental Anatomy, Pharmacology, X-Ray, Ethics, Jurisprudence, and Hygiene, and such other subjects as are regularly taught in reputable schools of dentistry and dental hygiene, as the Board in its discretion may require. The examination shall be given orally or in writing, or by giving a practical demonstration of the applicant's skill or by any combination of such methods or subjects as the Board may in its discretion require. The Board shall grade each applicant upon the various phases of the examination and shall report such grades to the applicant within a reasonable time after such examination, and each applicant who has satisfactorily passed all phases of the examination as determined by the Board shall be entitled to and shall be issued a license permitting such applicant to practice dental hygiene in the State of Texas as is defined and regulated by the law of this State.

SECTION 17. Section (7), Article 4551f, Revised Statutes, is amended to read as follows:

Sec. (7). (a) In this section, "person" means an individual, corporation, association, partnership, or other private legal entity.

(b) A person other than a dental laboratory or dental technician may not fill a prescription for the preparation or repair of a dental prosthetic appliance that is to be delivered by a licensed dentist to a dental patient. ~~[At the time the dental prosthetic appliance is delivered to the dentist, the dental laboratory that prepared to the dentist, the dental laboratory that prepared or repaired the appliance must provide the dentist its registration number as assigned by the Board and the expiration date of its certificate of registration. The dental laboratory must provide the number in writing.]~~

(c) A person may not offer or undertake to operate a dental laboratory or to provide the services described in Section (1) of this article unless the person holds a certificate of registration issued by the board.

(d) At the time the dental prosthetic appliance is delivered to the dentist, the dental laboratory that prepared or repaired the appliance must provide the dentist its registration number as assigned by the board and the expiration date of its certificate of registration. The dental laboratory must provide the number in writing.

(e) A dentist may not knowingly prescribe, order, or receive a dental prosthetic appliance that is to be prepared or has been prepared by an

unregistered dental laboratory. ~~[A dentist who violates this subsection commits an offense. Except as provided by Subsection (f) of this section, an offense under this subsection is a Class C misdemeanor.]~~

~~(f) [(c)]~~ A person who violates a subsection ~~[Subsection (b) or (c)]~~ of this section commits an offense. ~~An [Except as provided by Subsection (f) of this section, an] offense under Subsection (b) or (c) of this section is a third degree felony. An offense under Subsection (d) or (e) of this section [Subsection] is a Class C misdemeanor.~~

~~(g) [(f)]~~ If it is shown on the trial of an offense under this section that the defendant has previously been convicted under ~~Subsections (d) and (e) of this section, an offense [under this section] is a Class A misdemeanor.~~

SECTION 18. Chapter 9, Title 71, Revised Statutes, is amended by adding Article 4551n to read as follows:

Art. 4551n. EMPLOYMENT OF DENTISTS. (a) The Board shall, on a form and under rules adopted by the Board, approve and certify any health organization to employ dentists upon application by the organization and presentation of satisfactory proof to the Board that the organization:

(1) is a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and its subsequent amendments and Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501); and

(2) is organized and operated as a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. Section 254b, 254c, or 256, to contract with or employ dentists licensed by the Board.

(b) Any dentist providing dental services under Subsection (a) of this section shall provide those services free of charge or at a reduced fee commensurate with the patient's ability to pay in strict compliance with the applicable provisions of 42 U.S.C. Section 254b, 254c, or 256.

(c) The Board may, at its discretion, refuse to approve or certify any such health organization making application to the Board if in the Board's determination the applying nonprofit corporation is established or organized or operated in contravention to or with the intent to circumvent any provision of this Act.

SECTION 19. (a) This Act takes effect September 1, 1993.

(b) As the terms of members of the State Board of Dental Examiners expire or as vacancies on the board occur, the governor shall appoint members to the board to achieve, as soon as possible, the membership plan prescribed for the board by Article 4543a, Revised Statutes, as amended by this Act.

(c) The changes in law made by this Act in the qualifications of and the prohibitions applying to members of the State Board of Dental Examiners do not affect the entitlement of a member serving on the board immediately before the effective date of this Act to continue to hold office on the board for the term for which the member was appointed. The changes in law apply only to a member appointed on or after September 1, 1993.

(d) As soon as possible on or after the effective date of this Act, the governor shall appoint six members to the Dental Hygiene Advisory

Council. In making the appointments, the governor shall designate two members for terms expiring February 1, 1995, two members for terms expiring February 1, 1997, and two members for terms expiring February 1, 1999.

(e) The current Dental Hygiene Advisory Committee established under Section 4A, Chapter 475, Acts of the 52nd Legislature, 1951 (Article 4551e, Vernon's Texas Civil Statutes), shall continue to advise the board until the governor appoints a quorum of members of the Dental Hygiene Advisory Council. At that time the Dental Hygiene Advisory Committee is abolished and the new council assumes its duties.

(f) The changes in law made by this Act relating to a penalty that may be imposed apply only to a violation of the Dental Practice Act (Article 4543 et seq., Revised Statutes) or a rule adopted by the State Board of Dental Examiners that occurs on or after the effective date of this Act. A violation occurs on or after the effective date of this Act only if each element of the violation occurs on or after that date. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for this purpose.

SECTION 20. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### Amendment No. 1

Amend C.S.S.B. 673 as follows:

(1) On page 1, line 7, add "and Section 6" following "Section 5".

(2) On page 6, between lines 11 and 12, add the following subsection:

Sec. 6. TRAINING AND GUIDELINES FOR MEMBERS OF THE BOARD. (a) The board shall establish a training program for the members of the board.

(b) Before a member of a board may assume the member's duties and before the member may be confirmed by the Senate, the member must complete at least one course of the training program established under this section.

(c) A training program established under this section shall provide information to a participant regarding:

(1) the enabling legislation that created the board to which the member is appointed;

(2) the programs operated by the agency;

(3) the role and functions of the agency;

(4) the rules of the agency with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the agency;

(6) the results of the most recent formal audit of the agency;

(7) the requirements of the:

(A) open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments;

(B) open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(C) Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) and its subsequent amendments;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by that state agency or the Texas Ethics Commission.

(d) In developing the training requirements provided for in this section, the board shall consult with the governor's office, the attorney general's office, and the ethics commission.

(e) In the event that another state agency or entity is given the authority to establish the training requirements, the board shall allow that training in lieu of developing its own program.

#### **Amendment No. 2**

Amend C.S.S.B. 673 as follows:

(1) On page 1, beginning at line 9, strike all of Sec. 1. and replace with the following language:

Sec. 1. (a)(1) The State Board of Dental Examiners, also known as the Texas State Board of Dental Examiners, shall consist of 15 members. ~~Eight~~ ~~[Ten]~~ members must be reputable, practicing dentists who have resided in the State of Texas and have been actively engaged in the practice of dentistry for five years ~~[next]~~ preceding their appointment, none of whom shall be members of the faculty of any dental or dental hygiene school or college or of the dental or dental hygiene department of any medical school or college or shall have a financial interest in any such school or college. Two members must be reputable, practicing dental hygienists who have resided in the State of Texas and have been actively engaged in the practice of dental hygiene for five years ~~[next]~~ preceding the appointment, who are not licensed to practice dentistry in this state, and who shall not be a member of the faculty of any dental or dental hygiene school or college or of the dental or dental hygiene department of any medical school or college or shall have a financial interest in any such school or college. ~~Five~~ ~~[Three]~~ members must be members of the general public. A person is not eligible for appointment as a member if the person:

(A) has ever had his license to practice dentistry or dental hygiene revoked by the Board, provided that the revocation has not been subsequently overturned by final order of a court of law, based upon acts which, in the opinion of the Board, violated any provision of the statutes of the State of Texas relating to the practice of dentistry, dental hygiene, or any provision of this chapter; or

(B) is an adverse party in civil litigation against the Board.

(2) A person is not eligible for appointment as a public member if the person or the person's spouse:



(A) is ~~registered, certified, or~~ licensed by an occupational regulatory agency in the field of health care;

(B) is employed by or participates in the management of a business entity or other organization that is regulated by the Board or receives funds from the Board ~~[provides health care services or that sells, manufactures, or distributes health care supplies or equipment];~~

(C) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization that is regulated by the Board or receives funds from the Board; ~~[provides health care services or the sells, manufactures, or distributes health care supplies or equipment; or]~~

(D) uses or receives a substantial amount of tangible goods, services, or funds from the Board, other than compensation or reimbursement authorized by law for Board membership, attendance, or expenses; or

(E) is employed by an individual serving as a member of the board.

(b) Appointments to the Board shall be made without regard to the race, ~~color, disability~~ ~~[creed]~~, sex, religion, ~~age~~, or national origin of the appointees. In making appointments under this section, the Governor shall attempt to appoint members of different minority groups including females, African-Americans, Hispanic-Americans, Native Americans, and Asian-Americans.

(c) All members of the Board shall have full and identical privileges, except that only dentist members may participate in passing or failing applicants for a license to practice dentistry during the clinical portion of the Board examinations for dentists.

#### **Amendment No. 3**

Amend C.S.S.B. 673 as follows:

(1) On page 10, line 6, add "or dental hygiene" following "dentistry".

#### **Amendment No. 4**

Amend C.S.S.B. 673 as follows:

(1) On page 47, line 21 strike Subsection (d) and replace with the following language:

(d) As soon as possible on or after the effective date of this Act, the governor shall appoint three members to the Dental Hygiene Advisory Council. In making the appointments, the governor shall designate one member for a term expiring February 1, 1995, one member for a term expiring February 1, 1997, and one member for a term expiring February 1, 1999.

#### **Amendment No. 5**

Strike SECTIONS 14 and 15, C.S.S.B. 673, in their entirety, substitute in lieu thereof the following, and renumber succeeding SECTIONS in consecutive numerical sequence:

SECTION 14. Section 2, Article 4551e, Revised Statutes is amended to read as follows:

Section 2. A dental hygienist shall be not less than eighteen (18) years of age and a graduate of an accredited high school or hold a certificate of high school equivalency (GED) and be a graduate of a recognized and accredited school or college of dentistry or dental hygiene or foreign and/or nonaccredited dental hygiene program approved by the Texas State Board of Dental Examiners in which the course of instruction shall be the equivalent of not less than two (2) terms of eight (8) months each and who shall have thereafter passed an examination given by and before the Texas State Board of Dental Examiners on subjects pertaining to dental hygiene, and who shall have complied with all of the provisions of this Act and the rules and regulations promulgated by the Texas State Board of Dental Examiners.

**Floor Amendment No. 1 on Third Reading**

Amend C.S.S.B. 673 on third reading by striking Subsection (a), Section 19, as amended on second reading; by striking Subsection (e), Section 19; and by relettering the Subsections of Section 19 accordingly.

The amendments were read.

Senator Moncrief moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 673 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Moncrief, Chair; Madla, Carriker, Parker, and Rosson.

**CONFERENCE COMMITTEE ON HOUSE BILL 253**

Senator Barrientos called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 253 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on H.B. 253 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Barrientos, Chair; Harris of Tarrant, West, Moncrief, and Armbrister.

**SENATE BILL 1077 WITH HOUSE AMENDMENTS**

Senator Harris of Dallas called S.B. 1077 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

**Amendment**

Amend S.B. 1077 by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of speech-language pathology and audiology and the continuation of the State Committee of Examiners for Speech Pathology and Audiology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. DEFINITIONS. In this Act:

(1) "Board" means the State [Texas] Board of Examiners for Speech-Language Pathology and Audiology [Health].

(2) ~~["Committee" means the State Committee of Examiners for Speech-Language Pathology and Audiology.~~

~~[(3)]~~ "Department" means the Texas Department of Health.

(3) ~~[(4)]~~ "Person" means an individual, corporation, partnership, or other legal entity.

(4) ~~[(5)]~~ "Speech-language pathologist" means an individual who practices speech-language pathology, who makes a nonmedical evaluation, who examines, counsels, or provides habilitative or rehabilitative services for persons who have or are suspected of having speech, voice, or language disorders, and who meets the qualifications ~~of [set forth in]~~ this Act.

(5) ~~[(6)]~~ "The practice of speech-language pathology" means the application of nonmedical principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, habilitation, rehabilitation, or instruction related to the development and disorders of communication, including speech, voice, [or] language, oral pharyngeal function, or cognitive processes, for the purpose of rendering or offering to render an evaluation, prevention, or modification of these disorders and conditions in individuals or groups of individuals. Speech-language pathologists may perform [the] basic audiometric screening tests and aural rehabilitation or habilitation ~~[hearing therapy procedures consistent with their training]~~.

(6) ~~[(7)]~~ "Audiologist" means a person who practices audiology, who makes a nonmedical evaluation, who examines, counsels, or provides habilitative or rehabilitative services for persons who have or are suspected of having a hearing or vestibular disorder, and who meets the qualifications ~~of [set forth in]~~ this Act.

(7) ~~[(8)]~~ "The practice of audiology" means the application of nonmedical principles, methods, and procedures for the measurement, testing, appraisal, prediction, consultation, counseling, habilitation, rehabilitation, or instruction related to ~~[hearing and]~~ disorders of the auditory or vestibular systems ~~[hearing and]~~ for the purpose of rendering

or offering to render services modifying communicative disorders involving speech, language, auditory or vestibular function, or other aberrant behavior relating to hearing loss. An audiologist may engage in any tasks, procedures, acts, or practices that are necessary (A) for the evaluation of hearing; (B) for training in the use of amplification including hearing aids; ~~or~~ (C) for the making of earmolds for hearing aids; (D) for the fitting, dispensing, and sale of hearing aids; or (E) for the management of cerumen. An audiologist may participate in consultation regarding noise control and hearing conservation, may provide evaluations of environment or equipment including calibration of equipment used in testing auditory functioning and hearing conservation, and may perform the basic speech and language screening tests and procedures consistent with his or her training.

~~(8) "Licensed assistant in speech-language [(9) "Speech-language]~~ pathology ~~[aide]~~" means a person who meets minimum qualifications which the ~~board~~ ~~[committee]~~ may establish for ~~licensed assistants~~ ~~[speech-language pathology aides]~~ and who works under the direction of a licensed speech-language pathologist. The qualifications for licensure as a ~~licensed assistant in~~ speech-language pathology ~~[aide]~~ shall be uniform and shall be less than those established by this Act as necessary for licensure as a speech-language pathologist.

~~(9) "Licensed assistant in audiology" [(10) "Audiology aide"]~~ means a person who meets minimum qualifications which the ~~board~~ ~~[committee]~~ may establish for ~~licensed assistants~~ ~~[audiology aides]~~ and who works under the direction of a licensed audiologist. The qualifications for licensure as a ~~licensed assistant in~~ ~~[an]~~ audiology ~~[aide]~~ shall be uniform and shall be less than those established by this Act as necessary for licensure as an audiologist.

SECTION 2. Section 3, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. **BOARD [Committee]; MEMBERSHIP.** (a) The State ~~Board~~ ~~[Committee]~~ of Examiners for Speech Pathology and Audiology is created within the Texas Department of Health. The ~~board~~ ~~[committee]~~ consists of nine members appointed by the governor ~~[to take office on the effective date of this Act]~~. Members of the ~~board~~ ~~[committee]~~ must have been residents of the State of Texas for two years immediately preceding appointment and must be representative of varying geographic regions of the state and from varying employment settings. Six members must have been engaged in rendering services, teaching, or research in speech-language pathology or audiology for at least five years and must meet the qualifications for full licensure under this Act. Of these six members, three members shall be audiologists, three members shall be speech-language pathologists. ~~All [Except for the initial appointees, all]~~ six shall hold valid licenses under this Act. Three members shall be selected from the general public. One of the three public members of the ~~board~~ ~~[committee]~~ must be a physician licensed to practice in the State of Texas and board certified in otolaryngology or pediatrics. The two remaining public members may not:

(1) be licensed by an occupational regulatory agency in the field of health care;

(2) be employed by and participating in the management of an agency or business entity that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment;

(3) own, control, or have a direct or indirect interest in more than 10 percent of a business entity that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment; or

(4) be an officer, employee, or paid consultant of a trade association in the field of health care. A member of the board [committee] may not be related within the second degree of affinity or consanguinity, as determined under Article 5996h, Revised Statutes, to a person who is an officer, employee, or a paid consultant of a trade association in the health-care field.

(b) An appointment to the board [committee] shall be made without regard to the race, creed, sex, religion, or national origin of the appointee.

(c) A person who is required to register as a lobbyist under Chapter 305, Government Code, in a health-related area may not serve as a member of the board or act as the general counsel to the board.

(d) Each board member shall comply with the board member training requirements established by any other state agency that is given authority to establish the requirements of the board.

SECTION 3. Section 4, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. TERMS; OFFICERS; QUORUM; EXPENSES. (a) Members [The term of initial appointees to the board shall be determined by lot as follows: three members are appointed for terms which expire August 31, 1985; three members are appointed for terms which expire August 31, 1987; and three members are appointed for terms which expire August 31, 1989. After the initial appointments, members] are appointed for staggered terms of six years, with three terms beginning September 1 of each odd-numbered year. Members of the board [committee] shall serve until the expiration of the term to which they have been appointed or until their successors have qualified. A person may not be appointed to serve more than two consecutive terms.

(b) The board [committee] shall be organized annually and select a chairperson, vice-chairperson, and a secretary-treasurer. The [initial chairperson shall be a person who meets the qualifications for licensing under this Act. After September 1, 1984, the] chairperson shall hold a valid license under this Act.

(c) Five members of the board [committee] constitute a quorum to do business.

(d) The board [committee] shall hold at least two regular meetings each year [at which time an examination as defined in Section 12 of this Act shall be offered]. Additional meetings may be held on the call of the chairperson or at the written request of any three members of the board [committee]. The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17,

Vernon's Texas Civil Statutes), and its subsequent amendments. [At least 14 days' advance notice of the committee meeting is required.]

(e) Board [~~Committee~~] members receive no compensation for their services; however, each member of the board [~~committee~~] is entitled to a per diem and travel allowance at the rate set by the legislature for state employees in the General Appropriations Act for each day that the member engages in the business of the board [~~committee~~].

SECTION 4. Section 5, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. DUTIES AND POWERS OF THE BOARD [~~COMMITTEE~~].

(a) The board [~~Subject to the approval of the board, the committee~~] shall adopt rules necessary to administer and enforce this Act, including rules that establish standards of ethical practice.

(b) With the assistance of the department, the board [~~committee~~] shall administer, coordinate, and enforce the provisions of this Act; evaluate the qualifications of applicants; provide for the examination of applicants; and issue subpoenas, examine witnesses, and administer oaths under the laws of the State of Texas.

(c) With the assistance of the department and in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), the board [~~committee~~] shall conduct hearings and keep records and minutes necessary to the orderly administration of this Act.

(d) The board [~~committee~~] with the aid of the department shall investigate persons engaging in practices that violate the provisions of this Act.

(e) A person who holds a license to practice speech-language pathology or audiology in this state is governed and controlled by the rules adopted by the [~~committee and approved by the~~] board [~~of health~~].

(f) The conferral or enumeration of specific powers elsewhere in this Act shall not be construed as a limitation of the general powers conferred by this section.

(g) The board [~~committee~~] shall be represented by the attorney general and the district and county attorneys of this state.

(h) The board [~~committee~~] may appoint subcommittees to work under its jurisdiction[~~, subject to the approval of the board~~].

(i) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board.

(j) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

(k) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

SECTION 5. Section 6, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. EMPLOYEES OF THE BOARD [~~Committee~~]. The Texas Department of Health shall provide such administrative and clerical employees as are necessary to carry out the provisions of this Act.

SECTION 6. Section 7, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. SEAL AND AUTHENTICATION OF RECORDS. The board [~~committee~~] shall adopt a seal by which it shall authenticate its proceedings. Copies of the proceedings, records, and acts of the board [~~committee~~] and certificates purporting to relate the facts concerning the proceedings, records, and acts, signed by the secretary-treasurer and authenticated by the seal, are prima facie evidence in all courts of this state.

SECTION 7. Sections 8(a) and (b), Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Licenses shall be granted either in speech-language pathology or audiology independently. Persons may be licensed in both areas if they meet the qualifications. The board by rule shall establish qualifications for dual licensure in speech-language pathology and audiology and may develop a full range of licensing options and establish rules for qualifications as necessary.

(b) A person may not practice or represent himself or herself as a speech-language pathologist or audiologist in this state [~~after August 31, 1984,~~] unless he or she is licensed in accordance with the provisions of this Act.

SECTION 8. Sections 9(b)-(p), Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) This Act does not prevent or restrict the activities and services and the use of an official title by persons holding a valid and current certification in speech-language pathology [~~speech and hearing therapy~~] from the Central Education Agency if those persons perform speech-language pathology or audiology services solely as a part of their duties within an agency, institution, or organization under the jurisdiction of the Central Education Agency. Effective September 1, 1994, the Central Education Agency certificate in speech-language pathology shall require the applicant to hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech-Language-Hearing Association and to pass a national examination in speech-language pathology or audiology approved by the board. If persons affected by this subsection perform work as a speech-language pathologist or audiologist apart from their positions within an agency, institution, or organization of the Central Education Agency, they must have a license issued by the board [~~committee~~], except that a person affected by this subsection may perform speech and hearing screening procedures without compensation without having a license issued by the board [~~committee~~]. In this subsection, "equivalent" means graduate level course work and practicum from a program accredited by the American

Speech-Language-Hearing Association. Course work and practicum requirements are the same as those established by the board for a license in speech-language pathology or audiology. The clinical fellowship year experience or internship may not be a requirement for the Central Education Agency certificate in speech-language pathology.

(c) This Act does not restrict the activities and services of students ~~[or interns]~~ pursuing a course of study leading to a degree in speech-language pathology at a college or university accredited by the Southern Association of Colleges and Universities or its equivalent, provided that these activities and services constitute a part of their supervised course of study and ~~[or internship year; that after September 1, 1984;]~~ they are supervised by a person licensed under this Act, ~~[;]~~ and that they are designated by a title such as ~~["Speech-Language Pathology Intern" or]~~ "Speech-Language Pathology Trainee" or other title clearly indicating their professional preparation ~~[the training]~~ status ~~[appropriate to their level of training]~~.

(d) This Act does not restrict activities and services of students ~~[or interns]~~ in audiology pursuing a course of study leading to a degree in audiology at a college or university accredited by the Southern Association of Colleges and Universities or its equivalent, provided that these activities and services constitute a part of their supervised course of study. ~~[or internship year; that after September 1, 1984;]~~ they are supervised by a person licensed under this Act, ~~[;]~~ and that they are designated by a title such as ~~["Audiology Intern" or]~~ "Audiology Trainee" or other title clearly indicating their professional preparation ~~[the training]~~ status ~~[appropriate to their level of training]~~. A student of audiology in an accredited college or university program is exempt from Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments, if the student's activities and services constitute a part of the student's supervised course of study or practicum experience.

~~(e) [This Act does not restrict the performance of speech-language pathology or audiology services in this state by a person not a resident of this state who is not licensed under this Act, if the services are performed for no more than five days in a calendar year and if the person meets the qualifications and requirements for application for licensure under this Act.]~~

~~[(f)]~~ This Act does not restrict the use of an official title by an individual teaching in a university or college training program, provided that the person is not engaged in the practice of speech-language pathology or audiology and does not supervise persons engaged in the practice of speech-language pathology or audiology.

~~[(f)] [(g)]~~ This Act does not permit a person to perform an act that would be in violation of the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes). ~~[This Act does not permit a person to provide medical or surgical diagnosis or treatment of laryngeal or ear disorders.]~~

~~(g) [(h)]~~ Nothing in this Act shall be construed as restricting or preventing a physician or surgeon from engaging in the practice of medicine in this state. This Act does not restrict speech or hearing testing or evaluation personally conducted by a licensed physician or surgeon.



~~(h) [(i)] This Act does not apply to persons employed by the Texas Department of Health in its programs concerned with hearing or speech services as long as they are performing duties under the jurisdiction of the Texas Department of Health.~~

~~[(j)] This Act does not apply to a person who shows evidence of having received training by the Texas Department of Health in one of the communication, speech, language, or hearing screening training programs approved by that agency, provided that all activities performed under this exception shall be limited to screening as defined by board rule [of hearing sensitivity]. An individual who has received training by the department in one of the communication, speech, language, or hearing screening training programs approved by the department may not practice speech-language pathology or audiology or represent the individual as a speech-language pathologist or audiologist.~~

~~(i) [(k)] This Act does not license a person to sell hearing aids as defined in Chapter 366, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes).~~

~~[(H)] This Act does not prevent or restrict a person licensed under Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments, [by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids] from engaging in the practice of fitting and dispensing hearing aids. This Act does not prohibit a fitter and dispenser of hearing aids licensed under Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments, from measuring human hearing using an audiometer or by any means to make a selection, adaptation, or sale of a hearing aid, including making impressions for earmolds to be used as part of a hearing aid, and any post-fitting counseling to fit and dispense hearing aids. A person who is not an audiologist who is licensed to fit and dispense hearing aids under Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments, may not practice speech-language pathology or audiology or represent the person as a speech-language pathologist or audiologist or by any other term restricted by this Act.~~

~~(j) [(m)] This Act does not prevent persons in an industrial setting from engaging in hearing testing as a part of a hearing conservation program in compliance with regulations of the Occupational Safety and Health Administration, provided that such persons are certified by an agency acceptable to the Occupational Safety and Health Administration.~~

~~(k) [(n)] This Act does not prevent or restrict communication, speech, language, or hearing screenings as defined by board rule [sensitivity screening evaluations] conducted by registered nurses licensed by the laws of this state and practicing in accordance with the standards of professional conduct and ethics promulgated by the rules and regulations of the Board of Nurse Examiners.~~

~~[(c) This Act does not prevent the use of the title "Certified Hearing Aid Audiologist" by a person so certified by the National Hearing Aid Association if the person is a licensed hearing aid dispenser and uses the title solely in connection with fitting and dispensing hearing aids and does not represent himself to be a licensed audiologist under this Act.~~

~~[(p) Nothing in this Act shall be construed as restricting or preventing a licensed psychologist from engaging in the practice of psychology within the scope of the activities permitted under that license.]~~

SECTION 9. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 9A to read as follows:

Sec. 9A. FITTING AND DISPENSING OF HEARING AIDS BY PERSONS REGULATED UNDER THIS ACT. (a) A person licensed as a speech-language pathologist under this Act may not fit, dispense, or sell hearing aids unless the person meets the specific requirements for fitting and dispensing hearing aids under this Act or Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments.

(b) A person who meets the requirements of this Act for licensure as an audiologist or audiologist intern who fits and dispenses hearing aids must:

(1) register with the board the person's intent to fit and dispense hearing aids;

(2) adhere to the profession's code of ethics;

(3) comply with the federal Food and Drug Administration guidelines required for fitting and dispensing hearing aids;

(4) provide a written contract for services in this state that contains the name, mailing address, and telephone number of the board; and

(5) follow the guidelines adopted by board rule for a 30-day trial period on every hearing aid purchased.

(c) If audiometric testing is not conducted in a stationary acoustical enclosure, sound level measurements must be conducted at the time of the testing to ensure that ambient noise levels meet permissible standards for testing threshold to 20 dB based on the most recent American National Standards Institute "ears covered" octave band criteria for permissible ambient noise levels during audiometric testing. A dBa equivalent level may be used to determine compliance. The board shall adopt rules necessary to enforce this subsection.

(d) A licensed hearing aid fitter and dispenser or licensed audiologist may not sell a hearing aid to a person under 18 years of age unless the prospective user, parent, or guardian presents the hearing aid fitter and dispenser or audiologist with a written statement signed by a licensed physician who specializes in diseases of the ear that states that the prospective user's hearing loss has been medically evaluated during the six-month period preceding the date the statement is presented and that the prospective user may be considered a candidate for a hearing instrument.

SECTION 10. Section 10, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. QUALIFICATION OF APPLICANTS FOR LICENSE; INTERN LICENSE. (a) To be eligible for licensing as a speech-language pathologist or audiologist, an applicant must:

(1) possess a minimum of [at least] a master's degree with a major in not less than one of the areas of communicative sciences or disorders from a program accredited by the American Speech-Language-Hearing Association in [speech-language pathology or audiology from] an accredited or approved college or university;

(2) submit transcripts from one or more colleges or universities showing successful completion of course work in amounts set by the ~~[committee with the approval of the]~~ board in the following areas:

(A) information about normal development and use of speech, language, and hearing;

(B) information about evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and

(C) information pertaining to related fields that augment the work of clinical practitioners of speech-language pathology and audiology;

(3) have successfully completed at least 36 [30] semester hours in courses that are acceptable toward a graduate degree by the college or university in which they are taken, at least 24 [21] of which are within the professional area for which the license is requested and at least six of which are in audiology for the applicant for a license in speech-language pathology ~~[license]~~ or not less than six of which are in speech-language pathology for the applicant for a license in audiology;

(4) have completed the [a] minimum number of [300 clock] hours established by the board of supervised clinical experience with individuals who present a variety of communication disorders. ~~This[, and this]~~ experience must have been obtained within his or her educational [training] institution or in one of its cooperating programs and under the supervision of a person holding a valid license to practice speech-language pathology or audiology~~[- provided during the first year of this Act, the supervision may be under a person who would have met the qualifications for a license under this Act];~~ and

(5) have obtained ~~[the equivalent of nine months of]~~ full-time supervised professional experience as defined by board rule in which bona fide clinical work has been accomplished in the major professional area for which the license is being sought, under the supervision of a qualified person acceptable to the board [committee] pursuant to guidelines approved by the board. The supervised professional [which] experience must have begun after completion of the academic and clinical experience required by this section.

(b) An applicant who has completed the requirements of Subsections (a)(1)-(4) of this section may only be licensed as an intern under this Act. An applicant who has successfully completed all academic and clinical requirements of Subsections (a)(1)-(4) of this section but who has not had

the degree officially conferred on the applicant may be licensed as an intern under this Act. The board by rule shall prescribe the terms by which an applicant may practice under an intern's license under this subsection. The board by rule shall establish general guidelines and renewal procedures for the holder of an intern license. An audiology intern is exempt from Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), and its subsequent amendments.

SECTION 11. Section 11, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. APPLICATION FOR LICENSE. Each person desiring a license under this Act shall make application to the board ~~[committee]~~ on a form and in the manner the board ~~[committee]~~ prescribes. The application shall be accompanied by the application fee which may not be refunded by the board ~~[committee]~~.

SECTION 12. Section 12, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. EXAMINATION. (a) Each applicant shall pass a validated examination approved ~~[be examined]~~ by the board ~~[committee]~~ and shall pay fees in a manner prescribed by the board ~~[to the committee, at least 30 days prior to the date of examination, a nonrefundable examination fee prescribed by the committee]~~. The examination shall be administered ~~[given]~~ at least twice each year ~~[at a time and place established by and under the supervision of the committee]~~.

(b) The board by rule may establish procedures for the administration of the examination. The board by rule ~~[committee]~~ may require a ~~[examine by]~~ written or oral examination or ~~[by]~~ both. The board ~~[committee]~~ shall maintain a record of all examination scores for at least two years after the date of examination.

(c) Standards for acceptable performance shall be determined by the board ~~[committee]~~.

(d) The board ~~[committee]~~ may examine in whatever theoretical or applied fields of speech-language pathology or audiology it deems appropriate. It may examine the candidates with regard to their professional skills and their judgment in the utilization of speech-language pathology or audiology techniques or methods.

(e) Persons who fail the examination may be examined at a subsequent time if they pay another nonrefundable examination fee. No applicant who has taken and failed to pass two examinations may take the examination until the person has submitted a new application together with a nonrefundable application fee and presented evidence acceptable to the board ~~[committee]~~ of additional study in the area for which licensure is sought. A person who fails a licensing examination administered under this Act shall contact the testing service administering the examination to request an analysis of the person's performance on the examination.

(f) Not later than the 30th day after the date on which a licensing examination is administered under this Act, the board shall notify each

examinee of the results of the examination. However, if an examination is graded or reviewed by a national or state testing service and the testing service does not directly notify examinees of the results of the examination, the board shall notify examinees of the results of the examination not later than the 14th day after the date on which the board receives the results from the testing service. If the notice of examination results graded or reviewed by a national or state testing service will be delayed for longer than 90 days after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day. [The committee may waive the examination for applicants who:

(1) present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the committee to be equivalent to those set forth in this Act; or

(2) hold the Certificate of Clinical Competence of the American Speech-Language Hearing Association in the area for which a license is being sought.]

SECTION 13. Section 13, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13. LICENSING UNDER SPECIAL CONDITIONS. (a) [The committee on request must waive educational, professional experience, and examination requirements for licensure in speech-language pathology for applicants who hold a baccalaureate or graduate degree, are fully certified by the Central Education Agency in speech and hearing therapy or in the judgment of the committee have met equivalent requirements, and within two years prior to the effective date of this Act were engaged in the practice of speech pathology on proof of bona fide practice of speech pathology, presented to the committee in the manner prescribed by the committee's rules, provided they file an application for licensure with the committee or the board of health before January 1, 1986. Such licenses shall be issued without delay and shall be renewed in the same manner as licenses granted under other provisions of this Act.

[(b) The committee on request shall waive educational and professional experience requirements for a license in audiology for an applicant who, on the effective date of this Act, holds a graduate degree from an accredited institution of higher education with a major in speech-language pathology or audiology, and has been continuously engaged in the practice of audiology for ten years immediately preceding the effective date of this Act, provided the applicant files an application for licensure with the committee on or before January 1, 1986. Such an applicant must pass the licensing examination under Section 12 of this Act not later than August 31, 1986.

[(c)] The board [committee] may [waive the examination and] grant a provisional license [licensure] to an applicant who;

(1) possesses a license in good standing as a speech-language pathologist or an audiologist in another state, the District of Columbia, or a territory of the United States that has licensing requirements that are substantially equivalent to the requirements of this Act;

(2) has passed a national or other examination relating to speech-language pathology or audiology that is recognized by the board; and

(3) is sponsored by a person licensed by the board under this Act with whom the provisional license holder may practice under this section [presents proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the committee to be equivalent to those set forth in this Act].

(b) An applicant for a provisional license may be excused from the requirement of Subsection (a)(3) of this section if the board determines that compliance with that subsection constitutes a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this Act to the holder of a provisional license under this section if:

(1) the provisional license holder passes the examination required by Section 12 of this Act;

(2) the board verifies that the provisional license holder has the academic and experience requirements for a license under this Act; and

(3) the provisional license holder satisfies any other license requirements under this Act.

(d) The board must complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued.

(e) [†] The board [committee] may waive the examination and grant licensure to an applicant who holds the Certificate of Clinical Competence of the American Speech-Language Hearing Association [or has met equivalent requirements in the area for which a license is sought].

SECTION 14. Sections 14(a), (c), and (d), Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The board [committee] shall issue a license to an applicant who meets the requirements of this Act and who pays to the board [committee] the initial nonrefundable license fee.

(c) On receiving an application provided for under Subsection (b) of this section accompanied by the nonrefundable application fee, the board [committee] shall issue a temporary certificate of registration which entitles the applicant to practice audiology or speech-language pathology for a period ending eight weeks after the conclusion of the next examination given after the date of issue.

(d) The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees payable on the original expiration date shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable [At licenses expire and become invalid one year from the date of issuance if not renewed].

SECTION 15. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 14A to read as follows:

Sec. 14A. TEMPORARY LICENSE; INACTIVE STATUS. (a) The board by rule may provide for the issuance of a temporary license.

(b) The board by rule may provide for a person who holds a license under this Act to be placed on inactive status. Rules adopted under this section shall include a time limit for a license holder to remain on inactive status.

SECTION 16. Sections 15(a), (c), and (d), Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) Each licensed speech-language pathologist or audiologist shall annually pay the nonrefundable renewal fee for a renewal of his license. A 60-day grace period shall be allowed. After expiration of the grace period, the ~~board~~ [committee] may renew each license after payment of a penalty set by the rules. No person who applies for renewal within two years after the date of expiration of the license may be required to submit to an examination as a condition to renewal. An application for a license filed not later than the second anniversary of the expiration date of the person's license is considered an application for renewal.

(c) ~~Renewal [Within three years of the effective date of this Act, renewal]~~ of a license is contingent on the applicant's meeting uniform ~~mandatory~~ continuing education requirements ~~that shall be established by the board [committee].~~ These continuing education requirements must be of such a nature that they can be met without necessitating an extended absence from the licensee's county of residence. ~~[Notice of continuing education requirements shall be sent to all persons licensed under this Act at least 12 months prior to the time that the person's license renewal is dependent on completion of the requirements.]~~ Continuing education requirements shall be sent to new applicants with the forms on which they are to apply for licensure. Notification or changes in continuing education requirements shall be sent to persons licensed under this Act at least one year prior to the date on which the new requirements become effective.

(d) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license. However, the board may renew without reexamination an expired license of a person who within the last three years was licensed in this state and is currently licensed and has been in practice in another state for the two years preceding application. An applicant who was licensed in this state but whose license has been expired for more than three years may reapply for a license by meeting the current licensing requirements. The board may adopt rules concerning the reinstatement of a license in a case of medical hardship. To renew an expired license the person must pay to the board a fee that is equal to the examination fee for the license. [A suspended license is subject to expiration and may be renewed as provided in this Act, but the renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to

~~engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license revoked on disciplinary grounds is subject to expiration as provided in this Act, but it may not be renewed. If it is reinstated after its expiration, the licensee as a condition of reinstatement shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of the license revocation.]~~

SECTION 17. Section 16, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. FEES. ~~[The amount of fees initially prescribed in connection with a license as a speech-language pathologist or audiologist may not exceed the following:~~

<del>{{(1) application fee:</del>	<del>\$75</del>
<del>{{(2) examination fee:</del>	<del>\$50</del>
<del>{{(3) initial license fee:</del>	<del>\$75</del>
<del>{{(4) license renewal fee:</del>	<del>\$75</del>
<del>{{(5) delinquency fee:</del>	<del>\$50</del>
<del>{{(6) temporary license fee:</del>	<del>\$25</del>
<del>{{(7) duplicate license fee:</del>	<del>\$10</del>

~~The board [committee] by rule shall establish reasonable and necessary fees. The[, and such] fees set by the board shall be adjusted so that the total fees collected, in the aggregate, shall be sufficient to meet the expenses of administering this Act [and so that unnecessary surpluses in the fund provided for in Section 20 of this Act are avoided].~~

SECTION 18. Section 17, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. DENIAL, SUSPENSION, AND REVOCATION. (a) The board [committee] may refuse to issue a license to an applicant or may suspend or revoke the license of any licensee for any of the following causes:

- (1) obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
- (2) selling, bartering, or offering to sell or barter a license or certificate of registration;
- (3) unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public as defined by the rules established by the board [committee] or violation of the code of ethics adopted and published by the board [committee];
- (4) violating any lawful order or rule rendered or adopted by the board [committee]; or
- (5) violating any provisions of this Act.

(b) The board [committee] shall deny an application for or suspend or revoke or impose probationary conditions on a license as ordered by the board [committee] in any decision made after hearing as provided in this Act. One year from the date of revocation of a license under this Act,



application may be made to the board ~~[committee]~~ for reinstatement. The board ~~[committee]~~ shall have discretion to accept or reject an application for reinstatement and may require an examination for the reinstatement.

(c) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of an offense involving moral turpitude is deemed to be a conviction within the meaning of this Act. At the direction of the board ~~[committee]~~ the license may be suspended or revoked or the board ~~[committee]~~ may decline to issue a license when the time for appeal of the conviction has elapsed or the judgment or conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence irrespective of a subsequent order allowing a person to withdraw his or her plea of guilty, or setting aside the verdict of guilty, or dismissing the information or indictment.

(d) In addition to the other disciplinary actions authorized by this section, the board may issue a written reprimand to a license holder who violates this Act or require that a license holder who violates this Act attend continuing education programs. The board may specify the number of hours that must be completed by an individual license holder to fulfill the requirements of this subsection.

(e) If a license suspension is probated, the board may require the license holder to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

(f) The schedule of sanctions adopted by the board by rule shall be used for any sanction imposed as the result of a hearing conducted by the board.

SECTION 19. Section 18(b), Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) If a person other than a licensed speech-language pathologist or audiologist has engaged in any act or practice which constitutes an offense under this Act, a district court of any county on application of the board ~~[committee]~~ may issue an injunction or other appropriate order restraining such conduct.

SECTION 20. Section 19, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 19. PROCEDURES FOR DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE. (a) A person whose application for a license is denied is entitled to a hearing before the board ~~[committee]~~ if such person submits a written request to the board ~~[committee]~~.

(b) Proceedings for revocation or suspension of a license shall be commenced by filing charges with the board ~~[committee]~~ in writing and under oath. The charges may be made by any person or persons.

~~(c) [The chairperson of the committee shall fix a time and place for a hearing and shall cause a written copy of the charges or reason for denial of a license, together with a notice of the time and place fixed for the hearing, to be served on the applicant requesting the hearing or the licensee against whom the charges have been filed at least 20 days prior to the date set for the hearing. Service of charges and notice of hearing may be given by certified mail to the last known address of the licensee or applicant.]~~

~~[(d) At the hearing the applicant or licensee has the right to appear either personally or by counsel or both, to produce witnesses, to have subpoenas issued by the committee, and to cross-examine opposing or adverse witnesses.]~~

~~[(e) The committee shall determine the charges on their merits and enter an order in a permanent record setting forth the findings of fact and law and the action taken. A copy of the order of the committee shall be mailed to the applicant or licensee at his or her last known address by certified mail.]~~

~~[(f) An individual whose application for a license has been refused or whose license has been cancelled, revoked, or suspended by the committee may take an appeal, within 20 days after the order is entered, to any district court of Travis County or to any district court of the county of his or her residence.]~~

~~[(g) In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts in Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.]~~

~~[(h) All proceedings under this Act shall conform to the requirements of the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a [6252-13g], Vernon's Texas Civil Statutes), except as modified by this section.]~~

SECTION 21. Section 20, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. DISPOSITION OF FUNDS RECEIVED. (a) All funds received by the board ~~[committee]~~ under this Act shall be deposited in accordance with applicable state law in the State Treasury in a separate fund to be known as the speech-language pathology and audiology fund and be appropriated to the board ~~[Texas Department of Health]~~ solely for administration of this Act.

(b) All ~~[After August 31, 1984, all]~~ expenses for the administration of the Act shall be paid from fees collected by the board ~~[committee]~~ under this Act.

~~[(c) There is hereby appropriated \$80,000 to the speech-language pathology and audiology fund for the implementation of this Act, said funds coming from the General Revenue Fund for the first year provided that the first \$80,000 of application and license fees shall be returned to the General Revenue Fund as they are received.]~~

SECTION 22. Section 22, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 22. SUNSET PROVISION. The State Board [~~Committee~~] of Examiners for Speech-Language Pathology and Audiology is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board [~~committee~~] is abolished and this Act expires September 1, 2005 [~~1993~~].

SECTION 23. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 23 to read as follows:

Sec. 23. COMPLAINT PROCEDURE IN GENERAL. (a) The board shall keep an information file about each complaint filed with the board. The board's information file shall be kept current and contain a record for each complaint of:

- (1) all persons contacted in relation to the complaint;
- (2) a summary of findings made at each step of the complaint process;
- (3) an explanation of the legal basis and reason for a complaint that is dismissed; and
- (4) other relevant information.

(b) If a written complaint is filed with the board that the board has authority to resolve, the board, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(c) The board by rule shall adopt a form to standardize information concerning complaints made to the board. The board by rule shall prescribe information to be provided to a person when the person files a complaint with the board.

(d) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

(e) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law.

SECTION 24. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Sections 24 and 25 to read as follows:

Sec. 24. COMPLAINT INVESTIGATION AND DISPOSITION. (a) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this subsection shall:

- (1) distinguish between categories of complaints;
- (2) ensure that complaints are not dismissed without appropriate consideration;
- (3) require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the board to obtain the services of a private investigator.

(b) The board shall dispose of all complaints in a timely manner. The board shall establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the complaint is received by the board. The schedule shall be kept in the information file for the complaint and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file and all parties to the complaint must be notified not later than the seventh day after the date the change is made.

(c) The director of the board shall notify the board of a complaint that extends beyond the time prescribed by the board for resolving the complaint so that the board may take necessary action on the complaint.

Sec. 25. INFORMAL PROCEEDINGS. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 13(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments; and

(2) informal proceedings held in compliance with Section 18(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and its subsequent amendments.

(b) Rules adopted under this section must:

(1) provide the complainant, if applicable and permitted by law, an opportunity to be heard;

(2) provide the licensee an opportunity to be heard; and

(3) require the presence of an attorney to advise the board or board's employees.

(c) The attorney under Subsection (b)(3) of this section must be either a legal representative of the department who represents the board or the board's employees or a representative of the office of the attorney general.

SECTION 25. Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is amended by adding Section 26 to read as follows:

Sec. 26. MONITORING OF LICENSE HOLDER. The board by rule shall develop a system for monitoring license holders' compliance with the requirements of this Act. Rules adopted under this section shall include procedures for monitoring a license holder who is ordered by the board to perform certain acts to ascertain that the license holder performs the required acts and to identify and monitor license holders who represent a risk to the public.

SECTION 26. Section 21, Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), is repealed.

SECTION 27. This Act takes effect September 1, 1993.

SECTION 28. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

**Amendment No. 1 on Third Reading**

Amend C.S.S.B. 1077, on third reading, in Section 8 of the bill, in amended Section 9(b), Article 4512j, as follows:

(1) Strike "Effective September 1, 1994, the Central Education Agency certificate in speech-language pathology shall require the applicant to hold a master's degree in communicative disorders or the equivalent from a university program accredited by the American Speech-Language-Hearing Association and to pass a national examination in speech-language pathology or audiology approved by the board.".

(2) Strike "In this subsection, "equivalent" means graduate level course work and practicum from a program accredited by the American Speech-Language-Hearing Association. Course work and practicum requirements are the same as those established by the board for a license in speech-language pathology or audiology.".

The amendments were read.

Senator Harris of Dallas moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 1077 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris of Dallas, Chair; Ellis, Madla, Parker, and Wentworth.

(Senator Harris of Dallas in Chair)

**CONFERENCE COMMITTEE ON HOUSE BILL 2116**

Senator Shelley called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on H.B. 2116 and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on H.B. 2116 before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Shelley, Chair; Henderson, Patterson, Shapiro, and Armbrister.

**HOUSE BILL 284 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 284**, Relating to the requirement that a person appointed to the board of fire commissioners of certain rural fire prevention districts be a resident of the district.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

Amend **H.B. 284** by inserting the following new section and renumbering the remaining sections:

"SECTION 2. For any rural fire district, rural rail transportation district, municipal management district, or conservation and reclamation district that encompasses one entire county and that county appoints six of the directors, those directors shall be appointed as follows:

(a) four directors shall be appointed by the four county commissioners, one director appointed by each commissioner, and must reside in the appointing commissioners' precinct; and

(b) two directors shall be appointed by the entire commissioners court and must be residents of a municipal utility district within the county but not within any incorporated city."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 284 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended, and that **H.B. 284** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**HOUSE BILL 285 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 285**, Relating to the requirement that the assistant treasurer of a rural fire prevention district execute and file a bond.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 285 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 285** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1510 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1510**, Relating to the powers and duties of the Health and Human Services Commission, the Department of Protective and Regulatory Services, the Texas Department of Health, and other health and human services agencies, to the statewide health coordinating council, and to the Interagency Council on Early Childhood Intervention Services; providing civil and criminal penalties.

The bill was read second time.

(President in Chair)

Senator Harris of Tarrant, on behalf of Senator Lecdom, offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **C.S.H.B. 1510** by inserting a new SECTION 28 to read as follows, and renumber the following sections.

SECTION 28. Section 533.083, Health and Safety Code, is amended to read as follows:

Sec. 533.083. ~~[CRITERIA FOR]~~ EXPANSION, CLOSURE, OR CONSOLIDATION OF FACILITY. (a) The department shall establish objective criteria for determining when a new facility may be needed and when a facility may be expanded, closed, or consolidated.

(b) The department may not close or consolidate a state school unless the closure or consolidation is expressly authorized by an act of the 73rd Legislature or a subsequent legislature.

The amendment was read.

On motion of Senator Zaffirini, the amendment was tabled by a viva voce vote.

**RECORD OF VOTE**

Senator Harris of Tarrant asked to be recorded as voting "Nay" on the motion to table the amendment.

Senator Harris of Tarrant offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend C.S.H.B. 1510 as follows:

(1) Add the following:

It is the intent of the legislature that on-going services be available to current residents of the two state schools which are a part of the Lelsz vs. Kavanaugh lawsuit settlement which was approved by the 72nd Legislature.

(2) Add the following:

The closure of any of the remaining eleven state schools for the mentally retarded shall occur only with the approval of the 73rd Legislature or a subsequent Legislature.

The amendment was read.

On motion of Senator Zaffirini, the amendment was tabled by a viva voce vote.

**RECORD OF VOTE**

Senator Harris of Tarrant asked to be recorded as voting "Nay" on the motion to table the amendment.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend C.S.H.B. 1510 by adding a new appropriately numbered section to read as follows, and renumbering the remaining sections appropriately:

Section \_\_\_\_\_.

(a) DEFINITION. In this section, "department" means the Texas Department of Mental Health and Mental Retardation.

(b) APPLICATION OF SECTION. (1) This section applies to an individual employed by the department at a state school scheduled for closure under the settlement of the Lelsz v. Kavanaugh litigation who continues employment at the school for as long as needed to deliver services.

(2) This section does not apply to an individual:

(A) who is not a regular department employee at the facility campus;

(B) who leaves a position at the facility before the date on which the employee's services are not needed, unless the individual leaves to accept a position under Subsection (C) of this Act; or

(C) whose employment is terminated because of an act or omission of the individual constituting good cause for employment termination.

(c) ENTITLEMENT. (1) An employee covered by this Act is entitled to:

(A) a comparable position at another department facility;

or

(B) payment for:

(i) two months administrative leave; and

(ii) one week of leave for each full year of service

with the department.



(2) Payment under Subdivision (B) of Subsection (1) of this Subsection shall be computed at the employee's salary rate on the date on which the employee's services are no longer needed.

(3) An individual who accepts a position with the department under this section is also entitled to:

(A) reimbursement of travel expenses and leave with full pay to visit prospective job sites within the department during the movement period designated by the department; and

(B) reimbursement for moving expenses actually incurred in transferring to the new facility during the movement period, but not to exceed \$1,500.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1510 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1510 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent: Harris of Tarrant.

The bill was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 1745 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1745**, Relating to the financing and use of certain property by a municipality or county.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1745 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that H.B. 1745 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **HOUSE BILL 2125 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2125**, Relating to the lease or transfer of property owned by a political subdivision to certain private for-profit and nonprofit organizations.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2125 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2125** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1948 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1948**, Relating to the authority of the Texas Partnership for Economic Development.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1948 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1948** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**HOUSE BILL 1942 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1942**, Relating to the allocation and distribution of money in the public transportation fund.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1942 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1942** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### HOUSE BILL 2109 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2109**, Relating to the schedule of fees adopted by the Texas Commission for the Deaf and Hearing Impaired to be paid to interpreters for persons who are deaf or hearing impaired.

The bill was read second time and was passed to third reading by a viva voce vote.

#### HOUSE BILL 2109 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2109** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

#### HOUSE BILL 2067 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2067**, Relating to an alternate promotional system for the police department in certain municipalities.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Amend **H.B. 2067** as follows:

SECTION 1. Subsection (d), Section 143.128, Local Government Code, is amended to read as follows:

(d) Regardless of the outcome of the meeting, the fire fighter's or police officer's immediate supervisor or other appropriate supervisor, or both, shall provide a written response to the fire fighter or police officer, with a copy to the grievance counselor, within 15 calendar [~~five of the supervisor's working~~] days after the date the meeting occurs. The response must include the supervisor's evaluation and proposed solution. The response shall either be personally delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

SECTION 2. Subsections (a), (b), and (c), Section 143.129, Local Government Code, are amended to read as follows:

(a) To continue the grievance procedure, the fire fighter or police officer must complete a step II grievance form and file it with the department head or the departmental grievance counselor within 15 [~~five~~]

calendar days after the date the fire fighter or police officer receives the supervisor's response under Section 143.128.

(b) The departmental grievance counselor shall arrange a meeting of the fire fighter or police officer, that person's immediate supervisor or other appropriate supervisor or both, and the department head or the department head's representative who must have a rank of at least assistant chief or the equivalent. The meeting shall be held within 15 calendar ~~[five of the aggrieved fire fighter's or police officer's working]~~ days after the date the step II grievance form is filed under Subsection (a).

(c) Regardless of the outcome of the meeting, the department head or the department head's representative shall provide a written response to the fire fighter or police officer within 15 calendar ~~[10 of the department head's or department head's representative's working]~~ days after the date the meeting occurs. The response shall either be personally delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

SECTION 3. Subsections (a) and (d), Section 143.130, Local Government Code, are amended to read as follows:

(a) To continue the grievance procedure, the fire fighter or police officer must complete a step III grievance form and file it with the director within 15 ~~[10]~~ calendar days after the date the fire fighter or police officer receives the department head's response under Section 143.129.

(d) The grievance examiner shall make written findings and a recommendation for solution of the grievance within 15 calendar ~~[10 of the aggrieved fire fighter's or police officer's working]~~ days after the date the hearing ends. The findings and recommendation shall be given to the commission and copies mailed to the fire fighter or police officer by certified mail, return receipt requested, at the last home address provided by that person, and to the department head.

SECTION 4. Subsection (a), Section 143.131, Local Government Code, is amended to read as follows:

(a) If the department head or the fire fighter or police officer rejects the proposed solution under Section 143.130, the department head, the department head's designated representative, or the fire fighter or police officer must complete a step IV grievance form and file it with the director within 15 ~~[10]~~ calendar days after the date the person receives the grievance examiner's recommendation.

SECTION 5. (a) This Act takes effect September 1, 1993, and applies only to an action taken under the grievance procedures of Sections 143.128 through 143.131, Local Government Code, as amended by this Act, on or after that date.

(b) An action taken under the grievance procedures of Sections 143.128 through 143.131, Local Government Code, before the effective date of this Act is governed by the law relating to the action in effect on the date the action was taken, and the former law is continued in effect for that purpose.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2067 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2067** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

#### **HOUSE BILL 362 ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 362**, Relating to reports of timeshare expenses charged and collected by managing entities of timeshare properties; providing a civil penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 362 ON THIRD READING**

Senator Haley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 362** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 2389 ON SECOND READING**

On motion of Senator Haley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 2389**, Relating to continuing care facilities.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 2389 ON THIRD READING**

Senator Haley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2389** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

#### HOUSE BILL 2385 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2385**, Relating to pediatric emergency medical services.

The bill was read second time and was passed to third reading by a viva voce vote.

#### RECORD OF VOTE

Senator Shelley asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### HOUSE BILL 2385 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2385** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Shelley.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

#### COMMITTEE SUBSTITUTE

#### HOUSE BILL 1551 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1551**, Relating to home care and community support services.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Amend **C.S.H.B. 1551** as follows:

1. On page 2, line 52, at the end of the sentence add "These services do not include inpatient care normally provided in a licensed hospital to a terminally ill person who has not elected to be a hospice client."
2. On page 3, line 58, add the word "certified" between the words "provide" and "home".
3. On page 5, line 45, reinstate the struck through "and".
4. On page 5, line 49, strike "and" and substitute "or".
5. On page 6, line 42, strike the first word "Health" and add in its place "Healthcare", and strike the word "Care".
6. On page 8, line 41, strike the words "Health Care" and add in its place "Healthcare".
7. On page 8, line 42, strike the word "national".
8. On page 11, line 24, strike the word "of" and add in its place "for".

9. On page 11, line 29, after the word "Network" add "or its successor".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1551 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.H.B. 1551 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

(Senator Moncrief in Chair)

#### **HOUSE BILL 2413 ON SECOND READING**

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2413**, Relating to tangible personal property exported outside of the United States and the persons who may provide documentation to prove the tax exemption for the property; providing penalties.

The bill was read second time.

Senator Truan offered the following committee amendment to the bill:

Amend **H.B. 2413** as follows:

(1) On page 1, line 7, strike the word "and" and between "151.159" and "to" insert ", and 151.160".

(2) On page 6, between lines 4 and 5 add the following:

Sec. 151.160. DEPOSITS. Penalties collected by the comptroller shall be deposited into general revenue. Fees and charges collected by the comptroller under this Act shall be considered reimbursements for expenses of administration and shall be available for use by the comptroller in accordance with provisions in the General Appropriations Act appropriating such revenues for use by agencies.

The committee amendment was read and was adopted by a viva voce vote.

#### **RECORD OF VOTE**

Senator Rosson asked to be recorded as voting "Nay" on the adoption of the committee amendment.

On motion of Senator Truan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **RECORD OF VOTE**

Senator Rosson asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **HOUSE BILL 2413 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2413** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Rosson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

#### **HOUSE BILL 2821 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2821**, Relating to the creation of the County Court at Law No. 3 of Fort Bend County.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2821 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2821** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 2826 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2826**, Relating to a court administrator in Fort Bend County.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2826 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2826** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.



The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**SENATE RULE 11.11 SUSPENDED  
(Posting Rule)**

On motion of Senator Barrientos and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Nominations might meet today.

**HOUSE BILL 2009 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 2009**, Relating to the Texas Animal Health Commission and to the control of animal diseases and pests; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2009 ON THIRD READING**

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 2009** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by a viva voce vote.

**HOUSE BILL 2079 REREFERRED**

On motion of Senator Zaffirini and by unanimous consent, **H.B. 2079** was withdrawn from the Committee on Natural Resources and was rereferred to the Committee on Health and Human Services.

**SENATE RULE 11.19 SUSPENDED  
(Posting Rule)**

On motion of Senator Turner, on behalf of Senator Montford, and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Finance might consider the following bills today:

**H.B. 1719**

**H.B. 2115**

**H.B. 1873**

**H.B. 737**

**NOTICE OF SESSION TO HOLD  
LOCAL AND UNCONTESTED BILLS CALENDAR**

Senator Truan announced that a Local and Uncontested Bills Calendar had been placed on the Members' desks.

On motion of Senator Truan and by unanimous consent, Senate Rule 9.03(b) was suspended to give notice that a Local and Uncontested Bills Calendar would be held at 3:30 p.m. today and that all bills would be considered on second reading in the order in which they are listed.

**SENATE RULE 11.19 SUSPENDED**  
**(Posting Rule)**

On motion of Senator Truan and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Administration might consider H.C.R. 119 today.

**RECESS**

On motion of Senator Truan, the Senate at 3:21 p.m. recessed until 3:30 p.m. today for the Local and Uncontested Bills Calendar.

**AFTER RECESS**

The Senate met at 3:30 p.m. and was called to order by Senator Harris of Tarrant.

**LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time, and passed (vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill):

**C.S.S.B. 345** (Madla) Relating to the provision of health services in public schools. (31-0) (31-0)

**S.B. 1496** (Luna) Relating to the period of duration and operation of certain nonprofit corporations. (31-0) (31-0)

**H.B. 22** (Barrientos) Relating to the creation and duties of a crime control and prevention district. (31-0) (31-0)

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend H.B. 22 as follows:

On page 1, line 23, replace "1.5 million" with "1 million"

The committee amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend H.B. 22 as follows:

(1) On page 6, lines 20-22, strike the following language:

"local law enforcement officials, the local supervision and corrections department, and the local juvenile probation department" and insert in lieu thereof "the local community justice council"

The committee amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend H.B. 22 as follows:

(1) On page 7, lines 19-22, strike the following language:

"The board of directors of the district shall seek the assistance of the Office of State-Federal Relations in identifying and applying for federal grants for criminal and juvenile justice programs."

And insert in lieu thereof:

"The board of directors of the district may seek the assistance of the Office of State-Federal Relations in identifying and applying for federal grants for criminal justice programs. The board of directors shall notify the appropriate Council of Government of any intent to submit applications for federal funds and for inclusion in the regional criminal justice planning process."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Barrientos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**H.B. 116** (Lucio) Relating to law enforcement efforts to prevent transportation of stolen vehicles and heavy equipment into Mexico and to prevent theft of vehicles and heavy equipment. (31-0) (31-0)

**H.B. 245** (Armbrister on behalf of Harris of Tarrant) Relating to the transfer of homestead property in certain small estates. (31-0) (31-0)

Senator Armbrister, on behalf of Senator Harris of Tarrant, offered the following committee amendment to the bill:

Amend H.B. 245 in Section 1 of the bill, in added Section 137, Texas Probate Code, by striking Subsection (c) and substituting the following:

(c) Title to a homestead that is the only real property in a decedent's estate may be transferred on an affidavit that meets the requirements of this section. An affidavit that is used to transfer title to a homestead under this section must be recorded in the deed records of a county in which the homestead is located. A purchaser for value may rely on a recorded affidavit under this section. A bona fide purchaser for value without actual or constructive notice of an heir who is not disclosed in a recorded affidavit under this section acquires title to a homestead free of the interests of the undisclosed heir, but the bona fide purchaser remains subject to a claim a creditor of the decedent has as provided by law. A person has constructive notice of the rights of an heir who is not disclosed in a recorded affidavit under this section if an affidavit, judgment of heirship, or title transaction in the chain of title in the deed records states that the heir of the decedent who is not disclosed in the affidavit is an heir of the decedent. An heir who is not disclosed in a recorded affidavit under

this section may recover from an heir who receives consideration in a transfer to a bona fide purchaser for value of title to a homestead passing under the affidavit.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister, on behalf of Senator Harris of Tarrant, and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**C.S.H.B. 354** (Whitmire) Relating to the reporting of certain financial transactions, to the creation of offenses relating to certain financial transactions, and to the creation of the attorney general law enforcement account; making an appropriation. (31-0) (31-0)

**H.B. 537** (Whitmire) Relating to the procedures for determining eligibility for parole of a defendant serving a life sentence after conviction of a capital felony. (31-0) (31-0)

**H.B. 1108** (Nelson) Relating to appointment of a bailiff for the 355th District Court. (31-0) (31-0)

**C.S.H.B. 1691** (Shelley) Relating to the name change of an adult. (31-0) (31-0)

**C.S.H.B. 2177** (Patterson) Relating to the directors of the Gulf Coast Water Authority. (31-0) (31-0)

**H.B. 2281** (Rosson) Relating to the acceptance of gifts and grants by the Governor. (31-0) (31-0)

Senator Rosson offered the following committee amendment to the bill:

Amend **H.B. 2281** as follows:

Strike the existing Sec. 401.032, on page 1, lines 15 through 19 and replace with the following:

Sec. 401.032. OTHER GIFTS. Unsolicited benefits received by the governor which are prohibited under Section 36.08 of the Penal Code may be donated to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious or scientific purposes.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Rosson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**H.B. 2634** (Bivins) Relating to restrictions on concentrated animal feeding operations to protect waters of the state. (31-0) (31-0)

**H.B. 2677** (Truan) Relating to the requirement of water utilities to obtain a certificate of convenience and necessity. (31-0) (31-0)

**H.B. 2800** (Shapiro) Relating to the powers and duties of certain regional transportation authorities. (31-0) (31-0)

**CONCLUSION OF SESSION FOR  
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for consideration of the Local and Uncontested Bills Calendar was concluded.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2058**

Senator Truan submitted the following Conference Committee Report:

Austin, Texas  
May 20, 1993

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 2058** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

TRUAN	JUNELL
LUNA	BOMER
BARRIENTOS	T. HUNTER
ROSSON	HERNANDEZ
TURNER	OGDEN
On the part of the Senate	On the part of the House

The conference committee report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 965**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 17, 1993

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 965** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI	H. CUELLAR
BROWN	S. THOMPSON
PARKER	PUENTE
LEEDOM	GOODMAN
NELSON	SADLER
On the part of the Senate	On the part of the House

The conference committee report was filed with the Secretary of the Senate.

#### CONFERENCE COMMITTEE REPORT ON SENATE BILL 510

Senator Moncrief submitted the following Conference Committee Report:

Austin, Texas  
May 21, 1993

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs:

We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 510 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MONCRIEF	COUNTS
ARMBRISTER	ALLEN
CARRIKER	BAILEY
SHAPIRO	OAKLEY
WEST	TELFORD
On the part of the Senate	On the part of the House

#### A BILL TO BE ENTITLED AN ACT

relating to the continuation and operation of the Department of Public Safety, to the access that entities have to criminal history record information maintained by the department and certain other criminal justice agencies, and to the transfer of responsibility for law enforcement in the Capitol Complex from the General Services Commission to the Department of Public Safety; creating offenses; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 411.002, Government Code, is amended to read as follows:

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 2005 [~~1993~~].

SECTION 2. Section 411.003, Government Code, is amended by amending Subsections (b) and (d) and adding Subsection (f) to read as follows:

(b) The commission is composed of three citizens of this state appointed by the governor with the advice and consent of the senate. Members must be selected because of their peculiar qualifications for the position. Appointments to the commission shall be made without regard to race, color, disability, sex, religion, age, or national origin. In making an appointment the governor shall consider, among other things, the person's knowledge of laws, experience in the enforcement of law, honesty, integrity, education, training, and executive ability.

(d) The governor shall designate one member of the commission as chairman of the commission to serve in that capacity at the pleasure of the governor ~~[commission annually shall elect a member to serve as chairman]~~. The commission shall meet at the times and places specified by commission rule or at the call of the chairman or any two members.

(f) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

SECTION 3. Section 411.004, Government Code, is amended to read as follows:

Sec. 411.004. DUTIES AND POWERS OF COMMISSION. The commission shall:

(1) formulate plans and policies for:

- (A) enforcement of state criminal, traffic, and safety laws;
- (B) prevention of crime;
- (C) detection and apprehension of persons who violate

laws; and

(D) education of citizens of this state in the promotion of public safety and the observance of law;

(2) organize the department and supervise its operation;

(3) adopt rules considered necessary for carrying out the department's work;

(4) maintain records of all proceedings and official orders; ~~and~~

(5) biennially submit a report of its work to the governor and legislature, including the commission's and director's recommendations; and

(6) provide to its members, as often as necessary, information regarding their qualifications for office under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 4. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0035 to read as follows:

Sec. 411.0035. MEMBER AND GENERAL COUNSEL RESTRICTION. A person may not serve as a member of the commission or act as the general counsel to the commission if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.

SECTION 5. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0036 to read as follows:

Sec. 411.0036. REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission if a member:

(1) does not have at the time of appointment the qualifications required by Section 411.003;

(2) does not maintain during service on the commission the qualifications required by Section 411.003;

(3) violates a prohibition established by Section 411.0035;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the chairman of the commission of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

SECTION 6. Subsection (f), Section 411.007, Government Code, is amended to read as follows:

(f) The commission shall establish grades and positions for the department. For each grade and position the commission shall designate the authority and responsibility within the limits of this chapter, set standards of qualifications, and fix prerequisites of training, education, and experience. The commission shall adopt necessary rules for the appointment, promotion, reduction, suspension, and discharge of all employees after hearing before the commission. A discharged officer or employee is entitled, on application to the commission, to a public hearing before the commission, who shall affirm or set aside the discharge. A person inducted into the service of the department is on probation for the first one year ~~[six months]~~ of service and at any time during that period may be discharged without the public hearing provided for by this subsection if the director, with the advice and consent of the commission, finds the person to be unsuitable for the work.

SECTION 7. Subchapter A, Chapter 411, Government Code, is amended by adding Sections 411.0075 and 411.0076 to read as follows:

Sec. 411.0075. PERSONNEL POLICIES. (a) The director or the director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all non-entry-level positions concurrently with any public posting.

(b) The director or the director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made



without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the department work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the department work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(c) A policy statement prepared under Subsection (b) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(d) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (c) of this section. The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 411.0076. MINORITY RECRUITING. (a) The department shall continue to place emphasis on minority recruiting and hiring efforts for noncommissioned positions.

(b) The department's minority recruiter and equal employment opportunity positions created for personnel and equal employment opportunity matters shall continue to pertain to both commissioned and noncommissioned employees.

(c) The department by September, 1994, shall study job requirements for all noncommissioned positions and thereafter shall limit promotion-from-within only to positions where department experience is essential for reasonable job performance.

SECTION 8. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0095 to read as follows:

Sec. 411.0095. MEMORANDUM OF UNDERSTANDING WITH CRIMINAL JUSTICE DIVISION OF THE OFFICE OF THE GOVERNOR. (a) The department and the office of the governor, criminal justice division, by rule shall adopt a joint memorandum of understanding on coordinating the drug law enforcement efforts of the department and the criminal justice division.

(b) The memorandum of understanding shall:

(1) provide that the department shall advise the criminal justice division about the statewide drug policy planning efforts of the division;

(2) provide for representation by the department on any advisory board advising the governor about drug policy;

(3) require the criminal justice division and the department to define their respective roles relating to drug task forces;

(4) require the criminal justice division and the department to jointly determine the areas of law enforcement focus for drug task force efforts; and

(5) require the criminal justice division and the department to jointly develop guidelines and procedures to govern drug task force operations that are funded by the state.

(c) The criminal justice division and the department shall update and revise the memorandum of understanding as necessary and by rule adopt all revisions to the memorandum.

(d) The criminal justice division shall prepare the initial draft of the memorandum of understanding not later than January 1, 1994. This subsection expires January 2, 1994.

SECTION 9. Section 411.013, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The department shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the commission during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

SECTION 10. Subchapter A, Chapter 411, Government Code, is amended by adding Sections 411.0195 and 411.0196 to read as follows:

Sec. 411.0195. PUBLIC COMPLAINTS. (a) The department shall prepare information of public interest describing the functions of the department and the department's procedures by which complaints are filed with and resolved by the department. The department shall make the information available to the public and appropriate state agencies.

(b) The director by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the department for the purpose of directing complaints to the department.

(c) The department shall keep an information file about each complaint filed with the department that the department has authority to resolve.

(d) If a written complaint is filed with the department that the department has authority to resolve, the department, at final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Sec. 411.0196. ACCESS TO PROGRAMS. The department shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability can be provided reasonable access to the department's programs.

SECTION 11. Section 411.021, Government Code, is amended to read as follows:

Sec. 411.021. COMPOSITION. The Texas Rangers are a major division of the department consisting of [six captains, one headquarters sergeant, and] the number of rangers [privates] authorized by the legislature[, except that in case of an emergency the commission, with the governor's consent, may increase the force to meet extraordinary conditions]. The highest ranking officer of the Texas Rangers is responsible to and reports directly to the director. Officers are entitled to compensation as provided by the legislature.

SECTION 12. Subchapter B, Chapter 411, Government Code, is amended by adding Sections 411.0221, 411.0222, and 411.0223 to read as follows:

Sec. 411.0221. QUALIFICATIONS. (a) To be commissioned as an officer of the Texas Rangers, a person must:

(1) have at least eight years of experience as a full-time, paid peace officer, including at least four years of experience in the department; and

(2) be a commissioned member of the department.

(b) The Texas Rangers is an equal employment opportunity employer: all personnel decisions shall be made without regard to race, color, sex, national origin, or religion.

Sec. 411.0222. ELIGIBILITY FOR PROMOTION. Except as provided by Section 411.0223, an officer of the Texas Rangers is eligible for promotion only if the officer has served in the next lower position for at least two years before the date of promotion.

Sec. 411.0223. APPOINTMENT OF HIGHEST-RANKING OFFICERS. (a) Except as provided by Subsection (c), an officer is eligible for appointment by the director to the highest rank of the Texas Rangers only if the officer has at least five years of supervisory experience as a commissioned member of the Texas Rangers.

(b) Except as provided by Subsection (c), an officer is eligible for appointment by the director to the second highest rank of the Texas Rangers only if the officer has at least four years of supervisory experience as a commissioned member of the Texas Rangers.

(c) If there are less than two qualified officers for appointment to the highest rank or the second highest rank of the Texas Rangers, the director may appoint an officer to the highest rank or the second highest rank only if the officer has at least two years of supervisory experience as a commissioned member of the Texas Rangers.

SECTION 13. Subsections (d) and (g), Section 411.042, Government Code, are amended to read as follows:

(d) The department may charge each person and charge each entity or agency that is not primarily a criminal justice agency a fee for processing inquiries for ~~[criminal history records and other]~~ information ~~that is not criminal history record information~~ regarding a person. A person, entity, or agency that receives information must be entitled to receive the information under state or federal statutes, rules, regulations, or case law. The department may charge[:

~~[(1) a fee of \$10 for each inquiry for criminal history records information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which case the fee is \$1;~~

~~[(2) a fee of \$15 for each inquiry for criminal history records information on a person that is processed on the basis of a fingerprint comparison search; and~~

~~[(3)] actual costs for processing all [other information] inquiries under this section.~~

(g) The department may adopt reasonable rules under this section relating to:

(1) law enforcement information systems maintained by the department;

(2) the collection, maintenance, and correction of records; and  
 (3) reports of criminal history information submitted to the department[;

~~[(4) access to criminal history information maintained by the department; and~~

~~[(5) the type and format of information and the means of identification of a requesting person, entity, or agency required by the department as a condition of releasing criminal history records information].~~

SECTION 14. Chapter 411, Government Code, is amended by adding Subchapter E to read as follows:

#### SUBCHAPTER E. CAPITOL COMPLEX

Sec. 411.061. DEFINITION. (a) In this subchapter, "Capitol Complex" means property that is:

(1) located in Austin, Texas, in the area bounded on the north by Martin Luther King, Jr., Boulevard, on the east by Trinity Street, on the south by 10th Street, and on the west by Lavaca Street, and including the William P. Clements State Office Building located at 300 West 15th Street. The term shall also apply to other locations under the jurisdiction of the capitol police district as may be approved by the director; and

(2) owned by or under the control of the state.

(b) The provisions of this subchapter do not apply to the property or parking facility under the management and control of the Texas Employment Commission and located within the bounds set forth in Subsection (a).

#### Sec. 411.062. LAW ENFORCEMENT AND SECURITY AUTHORITY.

(a) The department has primary responsibility for law enforcement and security services on the Capitol Complex.

(b) Subsection (a) does not prohibit the department from requesting or receiving assistance from another law enforcement agency.

(c) This section does not prohibit a peace officer who is not a member of the department from exercising the officer's authority on the Capitol Complex in an emergency or in a situation where the officer reasonably believes that immediate action is necessary.

(d) The department shall adopt rules relating to security of persons and access to and protection of the grounds, public buildings, and property of the state within the Capitol Complex, except that public use of the capitol, the capitol extension, the capitol grounds, and the General Land Office building shall be governed by the State Preservation Board.

(e) The department may enforce the rules of the State Preservation Board, adopted under Section 443.018.

#### Sec. 411.063. RULES RELATING TO PARKING AND VEHICLES.

(a) The department shall adopt rules for the safe movement and the parking of vehicles in the Capitol Complex.

(b) Rules adopted under this section may:

(1) regulate the flow and direction of vehicular traffic;

(2) designate, mark, and assign areas and spaces for parking for elected state officials, chief executives and employees of state agencies

located in the Capitol Complex, state-owned vehicles, business vehicles, and visitors to the Capitol Complex;

(3) establish a system of registration for vehicle identification;

(4) prohibit or restrict the use of areas and spaces for parking;

(5) establish a reasonable fee for parking in a parking space on a parking lot or in a parking garage that is located in the Capitol Complex, other than a space in the capitol driveway or capitol extension garage; and

(6) provide for the towing and storing, at the expense of the owner, of a vehicle parked in violation of a rule.

(c) Rules that govern parking in the parking spaces in the capitol driveways and the parking lots and parking garages near the capitol, to the extent that parking in such places is not regulated by the State Preservation Board, shall provide for:

(1) assigning and marking reserved parking spaces for the unrestricted use of the governor, lieutenant governor, speaker of the house of representatives, and secretary of state;

(2) when the legislature is in session, assigning and marking reserved parking spaces requested by each house of the legislature for the unrestricted use of members and administrative staff of the legislature; and

(3) when the legislature is not in session, assigning and marking parking spaces requested by each house of the legislature for the use of members and administrative staff of the legislature.

(d) The department shall remit to the comptroller for deposit to the credit of State Parking Fund No. 125 any fee collected for the parking of a vehicle in the Capitol Complex. Money in the fund may be appropriated only to the department for the operation, maintenance, and improvement of state parking facilities on the Capitol Complex.

Sec. 411.064. ASSISTANCE OF TEXAS DEPARTMENT OF TRANSPORTATION OR GENERAL SERVICES COMMISSION. (a) On request of the department, the Texas Department of Transportation and the General Services Commission shall:

(1) assist the department in the marking and designation of parking lots, parking garages, and parking spaces;

(2) maintain the painting of lines and curb markings; and

(3) furnish and erect direction and information signs.

(b) The department may recover the cost of providing the services described in Subsection (a) from the agency or agencies for which the service was provided. To the extent that either the General Services Commission or the Texas Department of Transportation provides or assists in providing the services described in Subsection (a), that agency shall be reimbursed by the department from its funds or the funds received from another agency under this subsection.

Sec. 411.065. OFFENSES. (a) A person commits an offense if the person:

(1) drives or operates a motor vehicle at a speed greater than 15 miles per hour in the Capitol Complex; or

(2) violates a rule of the department adopted under Section 411.062 or 411.063.

(b) An offense under this section is a Class C misdemeanor.

Sec. 411.066. JURISDICTION. The municipal court of a municipality and the justice courts of a county in which an offense under Section 411.065 was committed have concurrent original jurisdiction over such an offense.

Sec. 411.067. ADMINISTRATIVE PARKING VIOLATIONS. (a) The department shall have authority to adopt rules for the assessment of an administrative fine of \$10 for violations of the parking rules adopted under Section 411.063. Notwithstanding the provisions of Sections 411.065 and 411.066, the department may in its discretion issue an administrative citation for a parking violation.

(b) Rules adopted under this section shall:

(1) establish a system for enforcement of administrative citations including but not limited to assessment of a late fee not to exceed \$2 and towing, impoundment, or immobilization of vehicles; and

(2) provide for a procedure of administrative review within the capitol police district and, on request of the person assessed an administrative fine, further judicial review by the department filing the appropriate citation or complaint in a court of competent jurisdiction, as provided in Section 411.066.

(c) The administrative review provided for in Subsection (b) shall not be considered a contested case under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) or Chapter 591, Acts of the 72nd Legislature, Regular Session, 1991 (Article 6252-13f, Vernon's Texas Civil Statutes).

(d) The department shall remit to the comptroller for deposit in the general revenue fund any administrative fine received under this section. Such revenues may be appropriated only to the department for capitol police security and parking.

[Sections 411.068 to 411.080 reserved for expansion]

SECTION 15. Article 18.20, Code of Criminal Procedure, is amended by adding Section 18 to read as follows:

Sec. 18. This article expires September 1, 2005.

SECTION 16. Section 16.02, Penal Code, is amended by adding Subsection (j) to read as follows:

(j) This section expires September 1, 2005.

SECTION 17. The title of Chapter 16, Penal Code, is amended to read as follows:

CHAPTER 16. CRIMINAL INSTRUMENTS AND OFFENSES INVOLVING CERTAIN COMMUNICATIONS ~~[INTERCEPTION OF WIRE OR ORAL COMMUNICATION]~~

SECTION 18. Section 1, Chapter 587, Acts of the 69th Legislature, Regular Session, 1985, is repealed.

SECTION 19. Section 481.063, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) For good cause shown, the director may probate the denial of an application for registration. If a denial of an application is probated, the director may require the person to report regularly to the department on

matters that are the basis of the probation or may limit activities of the person to those prescribed by the director, or both.

SECTION 20. Section 4.12, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4.12. OFFICE SPACE FOR DEPARTMENT OF PUBLIC SAFETY [PROTECTION OF STATE BUILDINGS AND GROUNDS; REGULATION OF PARKING]. ~~[(a) It shall be unlawful for any person to trespass upon the grass plots or flowerbeds, or to damage or deface any of the buildings, or cut down, deface, mutilate, or otherwise injure any of the statues, monuments, memorials, trees, shrubs, grasses, or flowers on the grounds or commit any other trespass upon any property of the state, real or personal, located on the grounds of the state capitol, the governor's mansion, or other property owned by the State of Texas known as the capitol complex, in the area bounded on the south by Tenth Street, on the north by Martin Luther King Boulevard, on the west by Lavaca Street, and on the east by Trinity Street in the City of Austin; or on any other state-owned property under the charge and control of the commission whether or not located in the City of Austin:~~

~~[(b) It is an offense to park a vehicle in a place other than a space marked and designated for parking by the commission or to block or impede traffic on the driveways of property owned or leased by the state in the area described in Subsection (a) of this section. The commission may regulate the flow and direction of traffic in the capitol complex and may erect the structures necessary to implement this authority:~~

~~[(c)(1) When the legislature is in session, the commission shall assign and mark, for unrestricted use by members and administrative staff of the legislature, the reserved parking spaces in the capitol complex requested by the respective houses of the legislature. A request for parking spaces reserved pursuant to this subsection shall be limited to spaces in the capitol driveways and the additional spaces in state parking lots proximately located to the capitol:~~

~~[(2) When the legislature is not in session, the commission shall, at the request of the respective legislative bodies, assign and mark the spaces requested for use by members and administrative staff of the legislature, in the areas described in Subsection (c)(1) of this section:~~

~~[(3) The commission shall assign and mark reserved parking spaces on the capitol driveways for the governor, lieutenant governor, speaker of the house, and secretary of state for their unrestricted use:~~

~~[(4) The commission may assign parking spaces to elected state officials and appointed heads of state agencies who occupy space in state buildings located within the bounds set forth in Subsection (a) of this section:~~

~~[(5) If spaces are available, the commission shall assign parking spaces to handicapped state employees. All remaining parking facilities under charge and control of the commission in the area described in Subsection (a) of this section may be made available by the commission for use by the state employees working for agencies housed within that area as pursuant to Subsection (c)(7) of this section:~~

~~[(6) The commission may designate and mark parking spaces for state-owned vehicles and visitor and business parking within the bounds set forth in Subsection (a) of this section.~~

~~[(7) The legislature may establish in the General Appropriations Act a charge for parking, or may also establish in said Act that no charge be made for parking, or both, in any part or all of a state-owned or state-leased area located within the bounds set forth in Subsection (a) of this section. In each biennium such a charge is established, the commission shall collect the charge. The legislature may also establish in said Act that parking in any part or all of such area be made available by the commission on either an open lot parking basis or an individual space assignment basis, or both. However, to the extent the legislature does not make provision in each biennium for any part or all of the area within the bounds set forth in Subsection (a) of this section either as to parking charges or the prohibition thereof, or as to the basis upon which parking facilities are to be utilized, the commission may establish and collect a reasonable monthly parking charge for parking within the bounds set forth in Subsection (a) of this section, except those parking spaces assigned to the respective houses of the legislature on the capitol driveways, and may make available parking facilities in said area on either an open lot parking basis or an individual space assignment basis, or both.~~

~~[(8) A person who parks an unauthorized vehicle in a space assigned under the provisions of this section commits an offense.~~

~~[(9) The provisions of this subsection do not apply to the property or the parking facility under the management and control of the Texas Employment Commission and located within the bounds set forth in Subsection (a) of this section.~~

~~[(d) The commission is hereby authorized to request the State Department of Highways and Public Transportation to assist it in the marking and designation of such parking spaces as the commission shall deem necessary and to maintain the painting of lines and curb markings and furnish such directional or informational signs as the commission shall deem necessary in the area described in Subsection (a) of this section. The Department of Public Safety shall provide advice and assistance to the commission when requested and shall at all times have at least one commissioned officer assigned to duty in the capitol area.~~

~~[(c) It shall be unlawful to operate a motor vehicle upon any property owned by the State of Texas within the bounds set forth in Subsection (a) of this section at a speed in excess of 15 miles per hour. All laws regulating traffic upon highways and streets shall apply to the operation of motor vehicles within the prescribed areas, except as modified hereby.~~

~~[(f) All of the general and criminal laws of the state are declared to be in full force and effect within the areas regulated by this section.~~

~~[(g)(1) As of the effective date of this Act, all of the duties, functions, positions, responsibilities, inventory, property, and other items assigned to the Capitol Security Police Division of the State Purchasing and General Services Commission are transferred to the Texas Department of Public Safety.~~



~~[(2) All employees of the Capitol Security Police Division of the State Purchasing and General Services Commission are eligible to apply for and may be employed by the Department of Public Safety. Such persons must meet all Texas Department of Public Safety requirements for employment appropriate to civilian and mansion security officers.~~

~~[(3) All such persons employed by the Texas Department of Public Safety shall be entitled to have all service with the State Purchasing and General Services Commission recognized for purposes of establishing length of service and accrual of and entitlement to benefits. Such service with the State Purchasing and General Services Commission shall be aggregated with service as employees of the Texas Department of Public Safety. Provided, however, all such persons employed by the Texas Department of Public Safety shall be subject to a six-month probationary period, as provided in Section 411.007, Government Code.~~

~~[(4) All such persons employed by the Texas Department of Public Safety shall be assigned to a rank or position consistent with their duties and responsibilities at the sole discretion of the Texas Department of Public Safety. The salary for such rank or position shall be consistent with the Texas Department of Public Safety rules and regulations and applicable state laws.~~

~~[(5)] The State Purchasing and General Services Commission shall provide office space [for this operational unit] to the [Texas] Department of Public Safety in the American Legion Building or other suitable facility acceptable to the [Texas] Department of Public Safety for the Capitol District.~~

~~[(6) All funds appropriated to the State Purchasing and General Services Commission for purposes of operating the Capitol Security Police Division are transferred to the Texas Department of Public Safety to be used for the operation of the unit.~~

~~[(i) Any person who violates any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$200. The penalties for violation of any of the other criminal laws of the state shall be as now provided by law.~~

~~[(j) In connection with traffic and parking violations only, the officers authorized to enforce the provisions of this section shall have the authority to issue and use traffic tickets and summons of the type now used by the city of Austin and/or the Texas Highway Patrol with such changes as are necessitated thereby to be prepared and furnished by the commission. Upon the issuance of any such traffic ticket or summons the same procedures shall be followed as now prevail in connection with the use of parking and traffic violation tickets by the city of Austin and the Texas Highway Patrol. Nothing herein shall restrict the application and use of regular arrest warrants.~~

~~[(k) The primary responsibility for enforcing the provisions of this section shall be with the commission, which shall have authority to promulgate rules and regulations not inconsistent with this section or other provisions of law as it may deem necessary to carry out the provisions of this section. Whenever the commission shall have promulgated such a rule or regulation and has posted signs in any of the regulated areas giving~~

~~notice thereof, it shall be unlawful for any person to violate any of the provisions of such signs and shall constitute a misdemeanor punishable as provided in this section.~~

~~[(1) The judge of the municipal court and/or any justice of the peace in Austin are each hereby separately vested with all jurisdiction necessary to hear, try, and determine criminal cases involving violations hereof where punishment does not exceed a fine of \$200.~~

~~[(m) Nothing herein contained shall be construed to abridge the authority of the commission to grant permission to use the capitol grounds and any grounds adjacent to any state building for such use as may be provided by preexisting law.]~~

SECTION 21. Section 13.09, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 13.09. APPLICATION. The state agencies subject to this article are:

(1) the Texas Department of Mental Health and Mental Retardation;

(2) the Texas Department of Human Services;

(3) the Texas Department of Criminal Justice;

(4) the Department of Agriculture;

(5) the Central Education Agency;

(6) the Texas Higher Education Coordinating Board;

(7) the Texas Department of Transportation ~~[State Department of Highways and Public Transportation]; [and]~~

(8) the Department of Public Safety; and

(9) the commission.

SECTION 22. Sections 1A, 2, 11, and 14A, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 1A. RULES. The Department may adopt rules that it determines are necessary to effectively administer this Act.

Sec. 2. DRIVERS MUST HAVE LICENSE. (a) No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon a highway in this State unless such person has a valid driver's license issued under the provisions of this Act.

(b) A judge, at his discretion, may dismiss the charge of driving with an expired driver's license if the defendant remedies this defect within 10 working days. Additionally, the judge, at his discretion, may assess an administrative fee not to exceed \$10 when the charge of driving with an expired driver's license has been remedied.

(c) A person may not receive a driver's license until he surrenders to the Department all valid driver's licenses in his possession issued to him by this or any other state. A surrendered license issued by another state or notification of a surrendered driver's license shall be forwarded ~~[returned]~~ to the state accompanied by a statement that the person is licensed in this State.

(d) No person holding a driver's license duly issued under the provisions of this Act shall be required to obtain any license for the

operation of a motor vehicle from any other State authority or department. ~~[Subsection (c) of Section 4 of Article 911A and Subsection (b) of Section 4 of Article 911B, Revised Civil Statutes, is hereby repealed.]~~

Sec. 11. ISSUANCE OF DRIVER'S LICENSES. (a) The Department shall, upon payment of the required fee, issue to every qualifying applicant a driver's license as applied for. The license shall bear a distinguishing number assigned to the licensee by the Department, a color photograph of the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. No license shall be valid until it has been so signed by the licensee. The Department shall indicate ~~[print the word and number]~~ "UNDER 21" ~~on [across]~~ the face of each original, renewed, or duplicate license issued to a licensee younger than 21 years of age~~;~~ or shall designate and clearly mark the license as a provisional license as provided in Section 11A of this Act.

~~[The words and numbers must be in red ink and must be at least one-fourth of an inch in height.]~~

(b) The Department may issue a temporary license without the photograph to out-of-state applicants, members in the Armed Forces, and in those situations where for any other reason the Department finds it necessary. If a temporary license is issued it shall be valid only until the applicant shall have had time to appear and have his picture taken and a license with his photograph issued.

(c) On all provisional licenses issued under Section 11A of this Act, the photograph of the licensee shall show a side profile. On all other licenses, the photograph shall show the entire face of the licensee.

Sec. 14A. PERSONAL IDENTIFICATION CARDS; FEE. (a) The Department shall issue personal identification cards, similar in form but distinguishable in color from drivers' licenses. The Department shall indicate ~~[print the word and number]~~ "UNDER 21" ~~on [across]~~ the face of each personal identification certificate issued to a person younger than 21 years of age. Certificates issued under authority of this section shall expire on a date specified by the Department. ~~[The words and numbers must be in red ink and must be at least one-fourth of an inch in height.]~~

(b) Original applications and applications for renewal of identification cards shall require information and be submitted on a form promulgated by the Department.

(c) The Department shall levy and collect a fee of Ten Dollars (\$10.00) for preparation and issuance of a card for a person under 65 years of age. The fee for a person 65 years of age or older is Five Dollars (\$5.00).

(d) The Department shall maintain records of card applications in the manner required by Subsection (a) of Section 21 of this Act for license applications and may destroy identification card records in the manner provided by Subsection (c) of that section for license records. The Department may cancel and require surrender of a card after determining that the holder was not entitled to its issuance or gave incorrect or incomplete information in making an application.

(e) An individual, corporation, or association may not deny a person access to goods, services, or facilities, except in regard to the operation of a motor vehicle, on the ground that the person holds a personal identification card rather than a driver's license or permit.

SECTION 23. Subsection (a), Section 4B, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The department may not assign a total of more than 123 ~~100~~ commissioned officers plus supervising personnel to staff driver's license facilities.

SECTION 24. Subdivision (3), Subsection (j), Section 21, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(3) The department is not authorized to provide class-type listings from the basic drivers' license record file to any person or business except as provided by Section 44B(d) of this Act ~~(provided, however, such information may be made available to an official of the federal government, the state, a city, town, county, special district, or other political subdivision for official governmental purposes only)~~.

SECTION 25. Section 22, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsections (c) and (g) to read as follows:

(b) Except for the fifth (5th), eleventh (11th), and twelfth (12th) listed grounds in this subsection, for which the director has authority to revoke a license, the authority to suspend the license of any driver as authorized in this Section is granted the director upon determining that the person:

(1) has operated a motor vehicle on a highway while the person's license was suspended;

(2) has been responsible as a driver for any accident resulting in death;

(3) is an habitual reckless or negligent driver of a motor vehicle;

(4) is an habitual violator of the traffic law.

The term "habitual violator" as used herein, shall mean any person with four (4) or more convictions arising out of different transactions in a consecutive period of twelve (12) months, or seven (7) or more convictions arising out of different transactions within a period of twenty-four (24) months, such convictions being for moving violations of the traffic laws of any ~~this~~ state or its political subdivisions other than a violation of:

(A) Section 3 or 5, Chapter 42, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6701d-11, Vernon's Texas Civil Statutes);

(B) Chapter 293, Acts of the 53rd Legislature, Regular Session, 1953 (Article 6701d-12, Vernon's Texas Civil Statutes);

(C) Chapter 608, Acts of the 65th Legislature, Regular Session, 1977 (Article 6701d-12a, Vernon's Texas Civil Statutes);

(D) Chapter 73, Acts of the 54th Legislature, Regular Session, 1955 (Article 6701d-13, Vernon's Texas Civil Statutes);

(E) Chapter 212, Acts of the 56th Legislature, Regular Session, 1959 (Article 6701d-14, Vernon's Texas Civil Statutes);

(F) Chapter 8, Acts of the 62nd Legislature, Regular Session, 1971 (Article 6701d-17, Vernon's Texas Civil Statutes); or

(G) Section 107C, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes);

(5) is incapable of safely driving a motor vehicle;

(6) has permitted an unlawful or fraudulent use of such license;

(7) has committed an offense in another state, which if committed in this State would be grounds for suspension or revocation;

(8) has violated a restriction imposed on the use of the license;

(9) has been responsible as a driver for any accident resulting in serious personal injury or serious property damage;

(10) is the holder of a provisional license under Section 11A of this Act and has been convicted of two (2) or more moving violations committed within a period of twelve (12) months;

(11) has not complied with the terms of a citation issued by a jurisdiction that is a member of the Nonresident Violator Compact of 1977 for a violation to which the compact applies;

(12) has a warrant of arrest outstanding, for failure to appear or pay a fine on a complaint, that is issued by a political subdivision that has contracted with the Department under Article 6687c, Revised Statutes;

(13) has committed an offense under Section 186, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes);

(14) has failed to provide medical records or has failed to undergo medical or other examinations as required by a panel of the Medical Advisory Board;

(15) has failed to take, or failed to pass, any examination required by the director under this Act; or

(16) has been reported by a court under Section 1c or 2(a), Chapter 302, Acts of the 55th Legislature, Regular Session, 1957 (Article 6701i-4, Vernon's Texas Civil Statutes), for failure to appear or default in payment of a fine unless the court has filed an additional report on final disposition of the case.

(c) The Department is authorized to seek the suspension of the license of any driver who has been convicted of a violation of the provisions of the Driver's License Compact of 1993, Article 6701d-27, Revised Statutes. For the purposes of this Act, a conviction shall be defined in the same manner as in the Driver's License Compact of 1993.

(g)(1) The Director is authorized, pursuant to the procedures in Subsection (a) of this section, to suspend the driver's license of a person who is younger than 21 years of age, is arrested or taken into custody for an offense under Article 6701i-1, Revised Statutes, and its subsequent amendments, or Section 19.05(a)(2), Penal Code, and its subsequent amendments, and submits to the taking of a specimen of breath or blood, if an analysis of the specimen shows the person had an alcohol concentration of 0.07 or more, but less than 0.10.

(2) The period of suspension under this subsection may not exceed one (1) year.

(3) A peace officer who arrests or takes into custody a person who is younger than twenty-one (21) years of age for an offense specified in Subdivision (1) of this subsection shall as soon as practicable send the Department a sworn report of information relevant to the arrest or taking into custody if analysis of the specimen showed an alcohol concentration of a level specified in that subdivision. The report shall identify the person who was arrested or taken into custody, state the officer's grounds for believing the person committed the offense, and give the analysis of the specimen. The report shall be made on a form approved by the Department and in the manner specified by the Department.

(4) A suspension under this subsection is a civil matter, is independent of and is not an estoppel as to any matter at issue in an adjudication of a criminal charge or a proceeding under Chapter 51, Family Code, arising from the occurrence that is the basis for the suspension, and does not preclude litigation of the same or similar facts in a criminal prosecution or in a proceeding under Chapter 51, Family Code. The disposition of a criminal charge or a proceeding under chapter 51, Family Code, does not affect a suspension under this subsection and is not an estoppel as to any matter at issue in a suspension proceeding under this subsection.

(5) In this subsection "alcohol concentration" has the meaning assigned by Subsection (a), Article 67011-1, Revised Statutes, and its subsequent amendments.

SECTION 26. Section 23, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The Department may not reinstate a license suspended under Section 22(b)(16) of this Act until:

~~[(1)] the court that filed the report for which the license was suspended files an additional report on final disposition of the case; and~~

~~[(2) the person whose license has been suspended pays to the Department a fee of \$25 in addition to any other fees required by law].~~

(d) The Department may not reinstate a license suspended or revoked under Section 22 of this Act unless the person whose license was suspended or revoked makes application to the Department for reinstatement of the person's license and pays to the Department a reinstatement fee of \$50. The Department shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund.

SECTION 27. Section 26, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 26. SURRENDER AND RETURN OF LICENSE. The ~~[(a) Except as limited by Subsection (b) of this section, the]~~ Department, upon suspending or revoking a license, shall require that such license shall be surrendered to and be retained by the Department except that at the end

of the period of suspension of such license, the license so surrendered shall be returned to the licensee.

~~[(b) The Department may not return a license or reinstate a privilege to operate a motor vehicle suspended under Section 24(a-1) of this Act, unless the person whose license or privilege was suspended makes application to the Department for reinstatement of the person's license or privilege and, in addition to any other fee required by law, pays to the Department a reinstatement fee of Five Dollars (\$5.00).~~

~~[(c) Fees paid under this section shall be deposited in the state treasury to the credit of the Operator's and Chauffeur's License Fund and shall be appropriated only to the Department to administer the provisions of this Act.]~~

SECTION 28. Article VI, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended by adding Section 44B to read as follows:

Sec. 44B. RELEASE OF ADDRESS INFORMATION PROHIBITED.

(a) Except as provided by Section 21(j) of this Act and by Subsections (d) and (e) of this section, the department may not release information from its driver's license record files that relates to the address of an individual if:

(1) the department's driver's license files contain an executed statement of that individual that restricts public access to that information; and

(2) the individual has, in writing:

(A) provided the department with a valid, existing, and accurate mailing address, other than a post office box number, in the city, if any, and the county in this state in which the individual resides and to which public access is not to be restricted;

(B) consented to receive service of process under the laws of this state at that alternate address; and

(C) paid to the department a fee of \$5 for establishing or changing an alternate address at any time other than when the individual renews the individual's driver's license or personal identification card.

(b) The department shall provide written notice to each applicant for an original or renewal of a driver's license, a personal identification card, or a duplicate or corrected driver's license or identification card that the applicant is entitled to execute a statement that restricts public access to information relating to the address of the applicant.

(c)(1) An individual who has submitted an executed statement under this section shall notify the department of any change in the individual's alternate address.

(2) Notification under this subsection must be made in writing before the 10th day after the date on which the alternate address is changed.

(d) The department may make information from driver's license record files, including class-type listings, available to an official of the federal government, the state, a municipality, a county, a special district, or another political subdivision for official government purposes only.

(e) The department is not prohibited under this section from releasing information relating to the address of an individual who:

(1) gives the department an invalid, nonexistent, or inaccurate alternate mailing address; or

(2) fails to provide the department with the notification required by Subsection (c) of this section.

(f) An individual may at any time revoke the individual's executed statement under Subsection (a) of this section. Revocation of an executed statement must be made in writing in the manner prescribed by the department.

(g) The department or an officer or employee of the department is not liable to a person damaged or injured by release of information to which public access is restricted under this section.

SECTION 29. Section 2, Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 67011-5, Vernon's Texas Civil Statutes), is amended by amending Subsections (b) and (f) and adding Subsection (j) to read as follows:

(b) Before requesting a person to give a specimen, the officer shall inform the person orally and in writing that if the person refuses to give the specimen, that refusal may be admissible in a subsequent prosecution, and that the person's license, permit, or privilege to operate a motor vehicle will be automatically suspended for 90 days after the date of adjournment of the hearing provided for in Subsection (f) of this section if the person is 21 years of age or older, or one year if the person is younger than 21 years of age, whether or not the person is subsequently prosecuted as a result of the arrest. If the officer determines that the person is a resident without a license or permit to operate a motor vehicle in this state, the officer shall inform the person that the Texas Department of Public Safety shall deny to the person the issuance of a license or permit for a period of 90 days after the date of adjournment of the hearing provided for in Subsection (f) of this section if the person is 21 years of age or older, or one year if the person is younger than 21 years of age, whether or not the person is subsequently prosecuted as a result of the arrest. The officer shall inform the person that the person has a right to a hearing on suspension or denial if, not later than the 20th day after the date on which the notice of suspension or denial is received, the department receives a written demand that the hearing be held.

(f) When the director receives the report, the director shall suspend the person's license, permit, or nonresident operating privilege, or shall issue an order prohibiting the person from obtaining a license or permit, for 90 days if the person is 21 years of age or older, or one year if the person is younger than 21 years of age, effective 28 days after the date the person receives notice by certified mail or 31 days after the date the director sends notice by certified mail, if the person has not accepted delivery of the notice. If, not later than the 20th day after the date on which the person receives notice by certified mail or the 23rd day after the date the director sent notice by certified mail, if the person has not accepted delivery of the notice, the department receives a written demand that a hearing be held, the department shall, not later than the 10th day after the



day of receipt of the demand, request a court to set the hearing for the earliest possible date. The hearing shall be set in the same manner as a hearing under Section 22(a), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes). If, upon such hearing the court finds (1) that probable cause existed that such person was driving or in actual physical control of a motor vehicle on the highway or upon a public beach while intoxicated, (2) that the person was placed under arrest by the officer and was offered an opportunity to give a specimen under the provisions of this Act, and (3) that such person refused to give a specimen upon request of the officer, then the Director of the Texas Department of Public Safety shall suspend the person's license or permit to drive, or any nonresident operating privilege for a period of 90 days if the person is 21 years of age or older, or for a period of not more than one year if the person is younger than 21 years of age, as ordered by the court. If the person is a resident without a license or permit to operate a motor vehicle in this State, the Texas Department of Public Safety shall deny to the person the issuance of a license or permit for 90 days if the person is 21 years of age or older, or for a period of not more than one year if the person is younger than 21 years of age.

(j) The Texas Department of Public Safety may not reinstate a license suspended under this section unless the person whose license was suspended makes application to the Texas Department of Public Safety for reinstatement of the person's license and pays to the Texas Department of Public Safety a reinstatement fee of \$50. The Texas Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund.

SECTION 30. Subsection (h), Section 13, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(h) If a person convicted of an offense under Article 67011-1, Revised Statutes, is punished under Subsection (c) of that article and is placed on probation, the court shall require, as a condition of the probation, that the defendant attend and successfully complete before the 181st day after the day probation is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas [State] Department of [Highways and Public] Transportation, and the community justice assistance division of the Texas Department of Criminal Justice [Texas Adult Probation Commission] designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the offender's school

and work schedule, the offender's health, the distance that the offender must travel to attend an educational program, and the fact that the offender resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause in the judgment. If a person is required, as a condition of probation, to attend an educational program, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. The report must include the beginning date of the person's probation. Upon the successful completion of the educational program, the person shall give notice to the probation department. The probation department shall then forward the notice to the court clerk. The court clerk shall then report the date of successful completion of the educational program to the Department of Public Safety for inclusion in the person's driving record. If the department does not receive notice that a person required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall suspend the person's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Section 24(g)(2), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes). The department may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$50. The department shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends probation for the defendant and also recommends that the defendant's driver's license not be suspended.

SECTION 31. Subsection (f), Section 139, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) Any peace officer of any city having a population of 300,000 or more, certified for this purpose by the Director, may detain any motor vehicle on any street or highway within such city subject to this section or to any regulation adopted in accordance with this section. Such certification procedures including the proper training of said officers shall be determined by the Department. The Department by rule shall establish reasonable fees sufficient to recover from a city the costs of training and certifying peace officers of the city under this section.

SECTION 32. Subsection (f), Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) The Director may deny an application for a license, ~~or~~ revoke or suspend an outstanding certificate of any inspection station or the certificate of any person to inspect vehicles, place on probation the holder of the certificate that has been suspended, or reprimand the holder of a certificate, in addition to action taken under Subsection (g) of this section, for any of the following reasons:

(1) issuing a certificate without required adjustments, corrections, or repairs having been made when an inspection disclosed the necessity for those adjustments, corrections, or repairs;

(2) refusing to allow the owner of the vehicle to have required corrections or adjustments made by any qualified person he may choose;

(3) issuing an inspection certificate without having made an inspection of the vehicle;

(4) knowingly or wilfully issuing an inspection certificate for a vehicle without the required items of inspection or with items which were not at the time of issuance in good condition and in conformity with the laws of this state or in compliance with rules of the Commission;

(5) charging more than the required inspection fee;

(6) issuing an inspection certificate without being certified to do so by the Department;

(7) proof of unfitness of applicant or licensee under standards set out in this Act or in Commission rules;

(8) material misrepresentation in any application or any other information filed under this Act or Commission rules;

(9) wilful failure to comply with this Act or any rule promulgated by the Commission under the provisions of this Act;

(10) failure to maintain the qualifications for a license; or

(11) any act or omission by the licensee, his agent, servant, employee, or person acting in a representative capacity for the licensee which act or omission would be cause to deny, revoke, or suspend a license to an individual licensee.

If the holder of a suspended certificate is placed on probation, the Director may require the holder of the certificate to report regularly to the Department on matters that are the basis of the probation.

When there is cause to deny an application for a certificate of any inspection station or the certificate of any person to inspect vehicles or revoke or suspend the outstanding certificate, the Director shall, in less than thirty (30) days before refusal, suspension, or revocation action is taken, notify the person, in writing, in person, or by certified mail at the last address supplied to the Department by the person, of the impending refusal, suspension, or revocation, the reasons for taking that action, and of his right to an administrative hearing for the purpose of determining whether or not the evidence is sufficient to warrant the refusal, suspension, or revocation action proposed to be taken by the Director. If, within twenty (20) days after the personal notice of the notice is sent or notice has been deposited in the United States mail, the person has not made a written request to the Director for this administrative hearing, the Director, without a hearing, may suspend or revoke or refuse to issue any certificate. On receipt by the Director of a written request of the person within the twenty-day (20-day) period, an opportunity for an administrative hearing shall be afforded as early as is practicable. In no case shall the hearing be held less than ten (10) days after written notification, including a copy of the charges, is given the person by personal service or by certified mail sent to the last address supplied to the Department by the applicant or certificate holder. The administrative hearing in these cases shall be

before the Director or his designee. The Director or his designee shall conduct the administrative hearing and may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books, papers, or documents. On the basis of the evidence submitted at the hearing, the Director acting for himself or upon the recommendation of his designee may refuse the application or suspend or revoke the certificate.

Any person dissatisfied with the action of the Director, without filing a motion for rehearing, may appeal the action of the Director by filing a petition within thirty (30) days after the action is taken in a district court in the county where the person resides or in a district court of Travis County, and the court is vested with jurisdiction, and it shall be the duty of the court to set the matter for hearing upon ten (10) days written notice to the Director and the attorney representing the Director. The court in which the petition of appeal is filed shall determine whether any action of the Director shall be suspended pending hearing and enter its order accordingly, which shall be operative when served upon the Director, and the Director shall provide the attorney representing the Director with a copy of the petition and order. The Director shall be represented in these appeals by the district or county attorney of the county, or the attorney general, or any of their assistants.

SECTION 33. Subdivisions (2) and (3), Subsection (c), Section 142, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), are amended to read as follows:

(2) The director shall discontinue the use of supervisory commissioned peace officers to administer the motor vehicle inspection and maintenance program established by this article not later than September 1, 1995.

(3) ~~The [By September 1, 1992, the] Department shall reduce by September 1 of each year the number of commissioned peace officers assigned to administer the motor vehicle inspection and maintenance program [by no less than 25 percent below the number assigned to that duty on the effective date of this subdivision and shall reduce the number by similar or greater percentages by September 1 of each succeeding year] so that by September 1, 1995, no more than 25 commissioned officers will be assigned to the program.~~

SECTION 34. Title 116, Revised Statutes, is amended by adding Article 6701d-27 to read as follows:

Art. 6701d-27. DRIVER'S LICENSE COMPACT OF 1993

Sec. 1. COMPACT. The Driver's License Compact of 1993 is hereby enacted into law and entered into with all other jurisdictions legally joining therein.

Sec. 2. FINDINGS AND DECLARATION OF POLICY. (a) The states find that:

(1) the safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles;

(2) violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property; and

(3) the continuance in force of a license to drive is predicated on compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated.

(b) It is the policy of each of the states to:

(1) promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where the operators drive motor vehicles; and

(2) make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances, and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the states.

Sec. 3. DEFINITIONS. In this compact:

(1) "Commercial driver's license" means a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 C.F.R. Part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicle.

(2) "Conviction" has the same meaning as provided in Subdivision (9), Section 3, Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes).

(3) "Executive director" means the director of the Department of Public Safety or the equivalent officer of another state.

(4) "Hazardous materials" has the meaning assigned by the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.).

(5) "Hazardous waste" means any material that is subject to the Hazardous Waste Manifest Requirement of the U.S. Environmental Protection Agency specified in 40 C.F.R. Part 262.

(6) "Home state" means the state which has issued a license or permit and has the power to suspend or revoke use of the license or permit to operate a motor vehicle.

(7) "License" means a license or permit to operate a motor vehicle issued by a state.

(8) "Licensing authority" means the Department of Public Safety or the equivalent agency of another state.

(9) "Notification" means that a document has been sent from one jurisdiction to another notifying anyone receiving the information of withdrawal of the driving privilege or the restoration of the privilege.

(10) "State" means a state, territory, or possession of the United States, the District of Columbia, or the commonwealth of Puerto Rico.

(11) "Violation" means the commission of an offense related to the use or operation of a motor vehicle, even if there has been no conviction. A suspension by reason of a violation includes a suspension for failure to appear in court or comply with a court order or suspension for violating an implied consent law.

Sec. 4. REPORTS OF CONVICTIONS. The licensing authority of a state shall report each conviction of a person from another state occurring within its jurisdiction to the licensing authority of the home state of the

licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security; and include any special findings made in connection with the conviction.

Sec. 5. EFFECT OF CONVICTION. (a) The licensing authority in the home state, for the purpose of suspension, revocation, cancellation, denial, disqualification, or limitation of the privilege to operate a motor vehicle, shall give the same effect to the conduct reported pursuant to Section 4 of this Act as it would if such conduct had occurred in the home state in the case of conviction for:

(1) manslaughter or negligent homicide resulting from the operation of a motor vehicle;

(2) driving a motor vehicle while under the influence of alcoholic beverages or a narcotic to a degree which renders the driver incapable of safely driving a motor vehicle;

(3) any felony in the commission of which a motor vehicle is used; or

(4) failure to stop and render aid or information in the event of a motor vehicle accident resulting in the death or personal injury of another.

(b) As to other convictions reported pursuant to this compact, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state.

(c) If the laws of a state do not provide for offenses or violations denominated or described in precisely the words employed in Subsection (a) of this section, those offenses or violations of a substantially similar nature and the laws of that state shall be understood to contain such provisions as may be necessary to ensure that full force and effect is given to this compact.

Sec. 6. APPLICATIONS FOR NEW LICENSES. On receiving an application for a license to drive, the licensing authority in a state shall ascertain whether the applicant has ever held or is the holder of a license to drive issued by any other state. The licensing authority in the state where application is made shall not issue a license to the applicant if the applicant:

(1) has held a license but the license has been suspended by reason, in whole or in part, of a violation and the suspension period has not terminated;

(2) has held a license but the license has been revoked by reason, in whole or in part, of a violation and the revocation has not terminated, except that after the expiration of one year from the date the license was revoked the person may apply for a new license if permitted by law; the licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant the person the privilege of driving a motor vehicle on the public highways; or

(3) is the holder of a license issued by another state currently in force unless the applicant surrenders such license or provides an affidavit

prescribed by the licensing authority that such license is no longer in the person's possession.

Sec. 7. APPLICABILITY OF OTHER LAWS. Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any state to apply any of its other laws relating to licenses to drive to any person or circumstance nor to invalidate or prevent any driver's license agreement or other cooperative arrangement between a member state and a nonmember state.

Sec. 8. COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION AND COMPENSATION OF EXPENSES. (a) The compact administrator shall be appointed by the executive director of the licensing authority. A compact administrator may provide for the discharge of his duties and the performance of his position by an alternate. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.

(b) The administrator of each state shall furnish to the administrator of each other state any information or documents reasonably necessary to facilitate the administration of this compact.

(c) The compact administrator provided for in this compact shall not be entitled to any additional compensation on account of his service as such administrator but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.

Sec. 9. EFFECTIVE DATE; WITHDRAWAL FROM COMPACT.

(a) This compact shall enter into force and become effective as to any state when it has enacted the compact into law.

(b) Any member state may withdraw from this compact by enacting a statute repealing the compact, but no such withdrawal shall take effect until six months after the executive director of the withdrawing state has given notice of the withdrawal to the executive directors of all other member states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

Sec. 10. RULEMAKING AUTHORITY. The licensing authority may adopt any rules and regulations deemed necessary by the executive director to administer and enforce the provisions of this compact.

Sec. 11. CONSTRUCTION AND SEVERABILITY. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable; if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect in the remaining states and in full force and effect in the state affected with regard to all severable matters.

SECTION 35. Chapter 411, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. CRIMINAL HISTORY RECORD INFORMATION

Sec. 411.081. APPLICATION OF SUBCHAPTER. (a) This subchapter does not apply to criminal history record information that is contained in:

(1) posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(2) original records of entry, including police blotters maintained by a criminal justice agency that are compiled chronologically and required by law or long-standing practice to be available to the public;

(3) public judicial, administrative, or legislative proceedings;

(4) court records of public judicial proceedings;

(5) published judicial or administrative opinions; or

(6) announcements of executive clemency.

(b) This subchapter does not prohibit a criminal justice agency from disclosing to the public criminal history record information that is related to the offense for which a person is involved in the criminal justice system.

(c) This subchapter does not prohibit a criminal justice agency from confirming previous criminal history record information to any person on specific inquiry about whether a named person was arrested, detained, indicted, or formally charged on a specified date, if the information disclosed is based on data excluded by Subsection (b).

Sec. 411.082. DEFINITIONS. In this subchapter:

(1) "Administration of criminal justice" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(2) "Criminal history record information" means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. The term does not include:

(A) identification information, including fingerprint records, to the extent that the identification information does not indicate involvement of the person in the criminal justice system; or

(B) driving record information maintained by the department under Section 21, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes).

(3) "Criminal justice agency" means:

(A) a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice; or

(B) a nongovernmental railroad or campus police department that has obtained an originating agency identifier from the Federal Bureau of Investigation.

(4) "Criminal justice purpose" means:

(A) an activity that is included in the administration of criminal justice; or

(B) screening of applicants for employment with a criminal justice agency.



Sec. 411.083. DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION. (a) Criminal history record information maintained by the department is confidential information for the use of the department and, except as provided by this subchapter, may not be disseminated by the department.

(b) The department shall grant access to criminal history record information to:

(1) criminal justice agencies;

(2) noncriminal justice agencies authorized by federal statute or executive order or by state statute to receive criminal history record information;

(3) the person who is the subject of the criminal history record information;

(4) a person working on a research or statistical project that:

(A) is funded in whole or in part by state funds; or

(B) meets the requirements of Part 22, Title 28, Code of Federal Regulations, and is approved by the department; and

(5) an individual or an agency that has a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice under that agreement, if the agreement:

(A) specifically authorizes access to information;

(B) limits the use of information to the purposes for which it is given;

(C) ensures the security and confidentiality of the information; and

(D) provides for sanctions if a requirement imposed under Paragraph (A), (B), or (C) is violated.

(c) The department may disseminate criminal history record information under Subsection (b)(1) only for a criminal justice purpose. The department may disseminate criminal history record information under Subsection (b)(2) only for a purpose specified in the statute or order. The department may disseminate criminal history record information under Subsection (b)(4) or (b)(5) only for a purpose approved by the department and only under rules adopted by the department.

(d) The department is not required to release or disclose criminal history record information to any person that is not in compliance with rules adopted by the department under this subchapter or rules adopted by the Federal Bureau of Investigation that relate to the dissemination or use of criminal history record information.

Sec. 411.084. USE OF CRIMINAL HISTORY RECORD INFORMATION. Criminal history record information obtained from the department under this subchapter:

(1) is for the exclusive use of the authorized recipient of the information; and

(2) may be disclosed or used by the recipient only if, and only to the extent that, disclosure or use is authorized or directed by:

(A) this subchapter;

(B) another statute;

(C) a rule adopted under a statute; or

(D) an order of a court of competent jurisdiction.

Sec. 411.085. UNAUTHORIZED OBTAINING, USE, OR DISCLOSURE OF CRIMINAL HISTORY RECORD INFORMATION; PENALTY. (a) A person commits an offense if the person knowingly or intentionally:

(1) obtains criminal history record information in an unauthorized manner, uses the information for an unauthorized purpose, or discloses the information to a person who is not entitled to the information;

(2) provides a person with a copy of the person's criminal history record information obtained from the department; or

(3) violates a rule of the department adopted under this subchapter.

(b) An offense under Subsection (a) is a Class B misdemeanor, except as provided by Subsection (c).

(c) An offense under Subsection (a) is a felony of the second degree if the person:

(1) obtains, uses, or discloses criminal history record information for remuneration or for the promise of remuneration; or

(2) employs another person to obtain, use, or disclose criminal history record information for remuneration or for the promise of remuneration.

(d) The department shall provide each person who applies for access to criminal history record information maintained by the department with a copy of this section.

Sec. 411.086. RULES. (a) The department shall adopt rules to administer this subchapter.

(b) Rules adopted by the department:

(1) shall provide for a uniform method of requesting criminal history record information from the department;

(2) may require a person requesting criminal history record information about an individual to submit to the department one or more of the following:

(A) the complete name, race, and sex of the individual;

(B) any known alias name of the individual;

(C) a complete set of the individual's fingerprints;

(D) a recent photograph of the individual;

(E) any known identifying number of the individual, including social security number, FBI number, driver's license number, or state identification number;

(F) the individual's date of birth;

(G) any known alias dates of birth of the individual; or

(H) any other information the department determines is necessary to identify the individual or the record;

(3) shall provide for the methods and formats for dissemination of criminal history record information; and

(4) shall provide security measures and policies that are designed to guard against unauthorized release or dissemination of criminal history record information that is maintained or disseminated by the department.

Sec. 411.087. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION MAINTAINED BY FEDERAL BUREAU OF

INVESTIGATION OR LOCAL CRIMINAL JUSTICE AGENCY. (a) A person, agency, department, political subdivision, or other entity that is authorized by this subchapter to obtain from the department criminal history record information maintained by the department that relates to another person is authorized to:

(1) obtain through the Federal Bureau of Investigation criminal history record information maintained or indexed by that bureau that pertains to that person; or

(2) obtain from any other criminal justice agency in this state criminal history record information maintained by that criminal justice agency that relates to that person.

(b) Any restriction or limitation in this subchapter on criminal history record information that a person, agency, department, political subdivision, or other entity is entitled to obtain from the department applies equally to the criminal history record information that the person, agency, department, political subdivision, or other entity is entitled to obtain from the identification division of the Federal Bureau of Investigation or other criminal justice agency.

(c) Subsection (a) does not authorize a person, agency, department, political subdivision, or other entity to obtain criminal history record information from the identification division of the Federal Bureau of Investigation if dissemination of criminal history record information by the division is prohibited by federal law, executive order, or rule.

(d) A person, agency, department, political subdivision, or other entity that is not a criminal justice agency is entitled to obtain criminal history record information from the Federal Bureau of Investigation only if:

(1) the requestor submits a complete set of the individual's fingerprints and other identifying information and pays any fee required or approved by the bureau;

(2) no disqualifying record or information from a state or local criminal justice agency is known to the requestor; and

(3) the request is not for the purpose of discriminating against a person because of the person's race, sex, age, disability, religion, color, or national origin.

(e) Subsection (a)(1) does not apply to a volunteer center under Section 411.126.

Sec. 411.088. FEES. (a) The department may charge a person that is not primarily a criminal justice agency a fee for processing inquiries for criminal history record information. The department may charge:

(1) a fee of \$10 for each inquiry for criminal history record information on a person that is processed only on the basis of the person's name, unless the inquiry is submitted electronically or by magnetic media, in which event the fee is \$1;

(2) a fee of \$15 for each inquiry for criminal history record information on a person that is processed on the basis of a fingerprint comparison search; and

(3) actual costs for processing all other information inquiries.

(b) The department shall deposit all fees collected under this section in the Operator's and Chauffeur's License Fund.

Sec. 411.089. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CRIMINAL JUSTICE AGENCY. (a) A criminal justice agency is entitled to obtain from the department any criminal history record information maintained by the department about a person.

(b) Criminal history record information obtained under Subsection (a) may be released by the criminal justice agency:

(1) to any other criminal justice agency, if such release is for a criminal justice purpose; and

(2) through audio response terminals and radio devices, whether digital or voice, if such dissemination is in accordance with rules promulgated by the department.

Sec. 411.090. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CENTRAL EDUCATION AGENCY. (a) The Central Education Agency is entitled to obtain from the department any criminal history record information maintained by the department about a person who has applied to the agency for a teaching certificate.

(b) Criminal history record information obtained by the agency under Subsection (a):

(1) may be used for any purpose related to the issuance, denial, suspension, or cancellation of a teaching certificate issued by the agency;

(2) may not be released to any person except on court order or with the consent of the applicant for a teaching certificate; and

(3) shall be destroyed by the agency after the information is used for the authorized purposes.

Sec. 411.091. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS ALCOHOLIC BEVERAGE COMMISSION. (a) The Texas Alcoholic Beverage Commission is entitled to obtain from the department criminal history record information maintained by the department that:

(1) the commission believes is necessary for the enforcement or administration of the Alcoholic Beverage Code; or

(2) pertains to a person who, under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is:

(A) an operator or an applicant to act as an operator of bingo occasions;

(B) an officer of an organization that applies for or holds a license to conduct bingo;

(C) a person who works at or will work at proposed bingo games;

(D) an applicant for a license to act or a person who holds a license to act as a commercial lessor, manufacturer, or distributor;

(E) a spouse of or a person related in the first degree by consanguinity or affinity, as determined under Article 5996h, Revised Statutes, to:

(i) a person who has a greater than 10 percent proprietary, equitable, or credit interest; or

(ii) a person who is an employee of or is active in a firm or corporation applying for a license to act or a person who holds a license to act as a commercial lessor, manufacturer, or distributor; or

(F) a person required to be named in an application for a license to act or a person who holds a license to act as a commercial lessor, manufacturer, or distributor.

(b) Criminal history record information obtained by the commission under Subsection (a)(1) may be used only for the enforcement and administration of the Alcoholic Beverage Code.

(c) Criminal history record information obtained by the commission under Subsection (a)(2):

(1) may be used only for the enforcement and administration of the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes); and

(2) may not be released to any person or agency except on court order or with the written consent of the person being investigated, unless the information is entered into evidence by the commission at an administrative hearing under that Act.

Sec. 411.0915. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION OF POLITICAL SUBDIVISIONS: TEXAS ALCOHOLIC BEVERAGE COMMISSION. The commission is entitled to receive criminal history record information, without charge, from any political subdivision of this state. Information obtained may only be used by the commission for the enforcement of the Alcoholic Beverage Code.

Sec. 411.092. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BANKING COMMISSIONER. (a) The banking commissioner is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under Article 350, Revised Statutes;  
or

(2) a principal of an applicant for a license under that article.

(b) Criminal history record information obtained by the commissioner under Subsection (a), except on court order or as provided by Subsection (c), may not be released or disclosed to any person.

(c) The commissioner is not prohibited from disclosing to the individual who is the subject of the information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

Sec. 411.093. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF LICENSING AND REGULATION. (a) The Texas Department of Licensing and Regulation is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under the Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes); or

(2) the holder of a license under that Act.

(b) The Texas Department of Licensing and Regulation is entitled only to criminal history record information that relates to the arrest or conviction of the person.

Sec. 411.094. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: INSTITUTION OF HIGHER EDUCATION. (a) In this section:

(1) "Institution of higher education":

(A) has the meaning assigned by Section 61.003, Education Code; or

(B) means a private institution of higher education that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

(2) "Security-sensitive position" means employment in an institution of higher education held by an employee who:

(A) handles currency;

(B) has access to a computer terminal;

(C) has access to a master key; or

(D) works in a location designated as a security-sensitive area.

(b) An institution of higher education is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a security-sensitive position.

(c) Criminal history record information obtained by an institution of higher education under Subsection (b) may be used only for the purpose of evaluating applicants for employment in security-sensitive positions.

(d) Conviction information received by an institution of higher education under Subsection (b) may not be released or disclosed to any person except on court order.

(e) After the expiration of the probationary term of the individual's employment, all criminal history record information obtained about an individual under Subsection (b) shall be destroyed by the chief of police of the institution of higher education.

Sec. 411.095. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CONSUMER CREDIT COMMISSIONER. (a) The consumer credit commissioner is entitled to obtain from the department criminal history record information that relates to a person who is:

(1) an applicant for a license under the Texas Pawnshop Act (Article 5069-51.01 et seq., Vernon's Texas Civil Statutes); or

(2) the holder of a license under that Act.

(b) The commissioner is entitled only to criminal history record information that relates to the arrest or conviction of the person.

Sec. 411.096. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS RACING COMMISSION. (a) The Texas Racing Commission is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who is:

(1) appointed to the commission;

(2) an applicant for employment by the commission; or

(3) an applicant for a license under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes).

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person except in a criminal proceeding, in a hearing conducted by the commission, on court order, or with the consent of the applicant.

Sec. 411.097. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: SCHOOL DISTRICT. (a) In this section, "school district" means any public school district in this state.

(b)(1) A school district is entitled to obtain from the department criminal history record information maintained by the department that the district is required or authorized to obtain under Section 21.917, Education Code, that relates to a person who is:

(A) an applicant for employment by the district; or

(B) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the district to provide transportation services if the employee drives or the applicant will drive a bus in which students of the district are transported.

(2) A school district is entitled to obtain from the department, no more than twice each year, criminal history record information maintained by the department that the district is required or authorized to obtain under Section 21.917, Education Code, that relates to a person who is a current employee of the school district.

(c) Criminal history record information obtained by a school district under Subsection (b) may not be released or disclosed to any person, other than the individual who is the subject of the information, the Central Education Agency, or a person specified in Section 21.917(h), Education Code.

Sec. 411.0975. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: PRIVATE SCHOOLS. (a) In this section, "private school" means a school that:

(1) offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(2) is not operated by a government entity.

(b) A private school is entitled to obtain from the department criminal history record information maintained by the department that a school district is required to authorize to obtain under Section 21.917, Education Code, that relates to a person who is:

(1) an employee of the private school;

(2) an applicant for employment by the private school; or

(3) an employee of or an applicant for employment with a public or commercial transportation company that contracts with the private school to provide transportation services if the employee drives or the applicant will drive a bus in which students of the private school are transported.

(c) Criminal history record information obtained by a private school under Subsection (b) may not be released or disclosed to any person, other than the individual who is the subject of the information, the Central Education Agency, or a person specified in Section 21.917(h), Education Code.

Sec. 411.098. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED. (a) The Texas School for the Blind and Visually Impaired is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation

identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

(b) Criminal history record information obtained by the school under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, or volunteer with a copy of their respective criminal history record information obtained from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency.

(e) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to school employees, professional consultants, and applicants for permanent, temporary, or consultative employment or volunteer positions whose employment or potential employment or volunteer position with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

Sec. 411.099. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF MEDICAL EXAMINERS. The Texas State Board of Medical Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes); or

(2) the holder of a license under that Act.

Sec. 411.100. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BOARD OF LAW EXAMINERS. (a) The Board of Law Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant to take a bar examination.

(b) Criminal history record information obtained by the board under Subsection (a) may not be released or disclosed to any person, except on court order or with consent of the applicant.

(c) Immediately following the board's decision on recommending an applicant, the board shall collect and seal all criminal history record information obtained by the board that relates to that applicant.

Sec. 411.101. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STRUCTURAL PEST CONTROL BOARD. The Texas Structural Pest Control Board is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:



(1) an applicant for a structural pest control business license under the Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes);

(2) an applicant for a certified applicator's license under that Act;  
or

(3) a holder of a structural pest control business license or a certified applicator's license under that Act.

Sec. 411.102. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MCGRUFF HOUSE PROGRAM. (a) In this section:

(1) "McGruff House" means a house that has been designated as a temporary haven for school-age children by a McGruff House program.

(2) "McGruff House program" means a program organized by local law enforcement agencies and civic organizations to provide a temporary haven and sense of security to school-age children in emergency or threatening situations.

(b) A local law enforcement agency involved in establishing a McGruff House program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an adult residing in a McGruff House.

Sec. 411.103. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: CHILD WATCH PROGRAM. (a) In this section, "child watch program" means a program organized by a local civic organization with the cooperation of a school district to protect schoolchildren by having parents or volunteers patrol their residential neighborhoods and schools to watch for suspicious activity, dangers, and threats to children.

(b) A local law enforcement agency that participates in a child watch program is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who:

(1) is a participant in the program; and

(2) gives written consent to the disclosure of the information.

(c) Criminal history record information obtained by a law enforcement agency under Subsection (b) may not be released or disclosed except on court order or with the consent of the person who is the subject of the criminal history record information.

Sec. 411.104. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS EMPLOYMENT COMMISSION. (a) In this section, "security sensitive position" has the meaning assigned by Section 11-E(a), Texas Unemployment Compensation Act (Article 5221b-9e, Vernon's Texas Civil Statutes).

(b) The Texas Employment Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for a security sensitive position.

(c) Criminal history record information obtained by the commission under Subsection (b) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

(d) After the commission hires an applicant for a security sensitive position, the commission shall seal the criminal history record information

that relates to the applicant and deliver the information to the agency administrator or the administrator's designee, who shall destroy the information.

(e) The commission shall destroy the criminal history record information of an applicant who is not hired.

Sec. 411.105. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. The Texas State Board of Public Accountancy is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for certification as a certified public accountant under the Public Accountancy Act of 1991 (Article 41a-1, Vernon's Texas Civil Statutes);

(2) an applicant to take the uniform CPA examination under that Act; or

(3) an applicant to register under Section 14 of that Act.

Sec. 411.106. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF INSURANCE. (a) The Texas Department of Insurance for good cause shown is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license, permit, certificate of authority, certificate of registration, or other authorization issued by the State Board of Insurance to engage in an activity regulated under the Insurance Code; or

(2) a corporate officer of an insurance company regulated by the Texas Department of Insurance.

(b) Criminal history record information obtained by the Texas Department of Insurance under Subsection (a) may not be disclosed or released to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(c) After the Texas Department of Insurance makes a determination as to the issuance of a license or certificate of authority to an applicant, the Texas Department of Insurance shall seal the criminal history record information regarding the applicant and shall deliver the information to the commissioner of insurance or the commissioner's designee, who shall maintain the information as provided by State Board of Insurance rule.

Sec. 411.107. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: RECEIVER. (a) In this section, "receiver" has the meaning assigned by Article 21.28, Insurance Code.

(b) A receiver is entitled to obtain from the department criminal history record information maintained by the department that the receiver believes is necessary for the investigation of any matter relating to a receivership estate.

(c) Criminal history record information obtained by a receiver under Subsection (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) A receiver may destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

Sec. 411.108. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMPTROLLER OF PUBLIC ACCOUNTS. (a) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who, under the State Lottery Act (Article 179g, Vernon's Texas Civil Statutes), is:

(1) a sales agent or an applicant for a sales agent license;  
(2) a person required to be named in a license application;  
(3) a lottery operator or prospective lottery operator;  
(4) an employee of a lottery operator or prospective lottery operator, if the employee is or will be directly involved in lottery operations;

(5) a person who manufactures or distributes lottery equipment or supplies or a representative of a person who manufactures or distributes lottery equipment or supplies offered to the lottery;

(6) a person who has submitted a written bid or proposal to the division in connection with the procurement of goods or services by the division, if the amount of the bid or proposal exceeds \$500;

(7) an employee or other person who works for or will work for a sales agent or an applicant for a sales agent license;

(8) a person who proposes to enter into or who has a contract with the division to supply goods or services to the division;

(9) if a person described in Subdivisions (1) through (8) of this section is not an individual, an individual who:

(A) is an officer or director of the person;

(B) holds more than 10 percent of the stock in the person;

(C) holds an equitable interest greater than 10 percent in

the person;

(D) is a creditor of the person who holds more than 10 percent of the person's outstanding debt;

(E) is the owner or lessee of a business that the person conducts or through which the person will conduct lottery-related activities;

(F) shares or will share in the profits, other than stock dividends, of the person;

(G) participates in managing the affairs of the person; or

(H) is an employee of the person who is or will be involved in:

(i) selling tickets; or

(ii) handling money from the sale of tickets;

(10) the director or a prospective director of the lottery division;

(11) an employee or prospective employee of the lottery division;

or

(12) a sales agent whose license is renewed under Section 3.01(h) of that Act.

(b) Criminal history record information obtained by the comptroller under Subsection (a) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

(c) The comptroller is not prohibited from disclosing to the person who is the subject of the criminal history record information the dates and places of arrests, offenses, and dispositions contained in the criminal history record information.

Sec. 411.109. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: STATE TREASURER. (a) The treasurer is entitled to obtain from the department criminal history record information maintained by the department that the treasurer believes is necessary for the enforcement or administration of Chapter 154 or Chapter 155, Tax Code, including criminal history record information that relates to a person who is:

(1) an applicant for a permit under Chapter 154 or Chapter 155, Tax Code;

(2) a permit holder under either of those chapters;

(3) an officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, owner, or managing employee of an applicant or permit holder under either of those chapters that is a corporation, association, joint venture, syndicate, partnership, or proprietorship;

(4) believed to have violated Chapter 154 or Chapter 155, Tax Code; or

(5) being considered by the treasurer for employment as a peace officer.

(b) Criminal history record information obtained by the treasurer under Subsection (a) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

(c) The treasurer is not prohibited from disclosing to a person who is the subject of criminal history record information the dates and places of arrests, the offenses, and the dispositions in the criminal history record information.

Sec. 411.110. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF HEALTH. (a) The Texas Department of Health is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license or certificate under the Emergency Medical Services Act (Chapter 773, Health and Safety Code);

(2) an owner or manager of an applicant for an emergency medical services provider license under that Act; or

(3) the holder of a license or certificate under that Act.

(b) Criminal history record information obtained by the Texas Department of Health under Subsection (a) may not be released or disclosed to any person except on court order, with the written consent of the person or entity that is the subject of the criminal history record information, or as provided by Subsection (c).

(c) After an entity is licensed or certified, the Texas Department of Health shall destroy the criminal history record information that relates to that entity.

(d) The Texas Board of Health shall destroy criminal history record information that relates to an applicant that is not certified.

(e) The Texas Board of Health is not prohibited from disclosing criminal history record information obtained under Subsection (a) in a criminal proceeding or in a hearing conducted by the Texas Department of Health.

Sec. 411.111. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DISTRICT COURT: NAME CHANGES. A district court is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an adult; and

(2) has petitioned the court to order a change of name for the person.

Sec. 411.112. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION. The Commission on Law Enforcement Officer Standards and Education is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license under Chapter 415; or

(2) the holder of a license under that chapter.

Sec. 411.113. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS SCHOOL FOR THE DEAF. (a) The Texas School for the Deaf is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency which relates to school employees, professional consultants, applicants for permanent, temporary, or consultative employment and volunteer positions whose employment or potential employment or volunteer positions with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

(b) Criminal history record information obtained by the school under Subsection (a) may not be released or disclosed to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subsection (d).

(c) The school shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(d) The school may provide the applicant, employee, professional consultant, or volunteer with a copy of his or her respective criminal history record information obtained from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency.

(e) The failure or refusal to provide a complete set of fingerprints or a complete name on request constitutes good cause for dismissal or refusal to hire, as applicable, with regard to school employees, professional consultants, and applicants for permanent, temporary, or consultative employment or volunteer positions whose employment or potential employment or volunteer position with the school involves direct interactions with or the opportunity to interact and associate with the children or youth attending the school.

Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES. (a)(1) In this subsection the terms "child," "child-care facility," and "family home" have the meanings assigned by Section 42.002, Human Resources Code.

(2) The Department of Protective and Regulatory Services is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(A) an applicant for a license, registration, or certification under Chapter 42, Human Resources Code;

(B) an owner or employee of or an applicant for employment by a child-care facility licensed, registered, or certified under that chapter;

(C) a resident of a registered family home, but not a child in the home's care or a parent of the child;

(D) an applicant for a position with the Department of Protective and Regulatory Services, the duties of which include direct delivery of protective services to children, elderly persons, or persons with a disability;

(E) a volunteer or applicant volunteer with a local affiliate in this state of Big Brothers/Big Sisters of America;

(F) a volunteer or applicant volunteer with the "I Have a Dream/Houston" program;

(G) an employee of a business entity that provides in-home respite care of children with temporary illnesses;

(H) an employee of a home health agency;

(I) a volunteer or applicant volunteer with an organization that provides court-appointed special advocates for abused or neglected children;

(J) a person providing or applying to provide adoptive or foster care for children in the care of the Department of Protective and Regulatory Services and other adults living with that person in the residence in which the child will reside;

(K) a Department of Protective and Regulatory Services employee who is engaged in the direct delivery of protective services to children, elderly persons, or persons with a disability on the date the department implements this section;

(L) a person who is the subject of a report the department receives alleging that the person has abused or neglected a child, an elderly person, or a person with a disability, provided that report has proven to have merit after investigation; or

(M) a relative providing or applying to provide in-home care for a child in the care of the Department of Protective and Regulatory Services and other adults living with that relative in the residence in which the child will reside.

(3) The Department of Protective and Regulatory Services is entitled, under this subsection, only to criminal history record information that relates to:

(A) an offense classified as an offense against the person or the family;

(B) an offense classified as public indecency; or

(C) a felony violation of a statute intended to control the possession or distribution of a substance included in Chapter 481, Health and Safety Code.

(4) Criminal history record information obtained by the Department of Protective and Regulatory Services under this subsection may not be released to any person except on court order, with the consent of the person who is the subject of the criminal history record information, or as provided by Subdivision (5).

(5) The Department of Protective and Regulatory Services is not prohibited from releasing criminal history record information obtained under this subsection to the person who is the subject of the criminal history record information or to a child-care facility that employs or is considering employing the person who is the subject of the criminal history record information.

(b)(1) In this subsection, "facility" has the meaning assigned by Section 106.001, Human Resources Code.

(2) The Department of Protective and Regulatory Services, on behalf of the Texas Department of Health, is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(A) an applicant for employment at a facility; or

(B) an employee of a facility.

(3) The Department of Protective and Regulatory Services is entitled to obtain, under this subsection, only criminal history record information that relates to:

(A) an offense classified as an offense against the person or the family;

(B) an offense classified as public indecency;

(C) a felony violation of a statute intended to control the possession or distribution of a substance included in Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code;

(D) a felony offense under Section 31.03, Penal Code; or

(E) an offense under Section 29.02, 29.03, or 30.02, Penal Code.

(4) Criminal history record information obtained by the Department of Protective and Regulatory Services under this subsection may not be released to any person except on court order, with the written consent of the person who is the subject of the criminal history record information, or as provided by Subdivision (5).

(5) The Department of Protective and Regulatory Services is not prohibited from disclosing criminal history record information obtained under this subsection to the Texas Department of Health or to the facility for which the Department of Protective and Regulatory Services requested the information.

Sec. 411.115. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS DEPARTMENT OF MENTAL HEALTH AND

MENTAL RETARDATION: COMMUNITY CENTERS. (a) In this section, "community center" has the meaning assigned by Section 531.002, Health and Safety Code.

(b) The Texas Department of Mental Health and Mental Retardation or a community center is entitled to obtain from the department criminal history record information maintained by the department that relates to a person:

(1) who is:

(A) an applicant for employment with the Texas Department of Mental Health and Mental Retardation;

(B) an employee of the Texas Department of Mental Health and Mental Retardation;

(C) an applicant for employment with a community center;

(D) an employee of a community center;

(E) an applicant for employment with or an employee of a business or person that contracts with the Texas Department of Mental Health and Mental Retardation or a community center to provide residential services to patients with mental illness or clients with mental retardation who were furloughed or discharged from a Texas Department of Mental Health and Mental Retardation facility or community center;

(F) a volunteer with the Texas Department of Mental Health and Mental Retardation;

(G) a volunteer with a community center; or

(H) a volunteer applicant; and

(2) who would be placed in direct contact with patients with mental illness or clients with mental retardation.

(c) The Texas Department of Mental Health and Mental Retardation or a community center is entitled to obtain only criminal history record information that relates to:

(1) a sexual offense;

(2) a drug-related offense;

(3) a theft offense;

(4) criminal homicide;

(5) assault or battery; or

(6) an offense involving personal injury or threat.

(d) Criminal history record information obtained by the mental health department or a community center under Subsection (b) may not be released or disclosed to a person, other than the contractor that employs the person who is the subject of the criminal history record information, except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) The Texas Department of Mental Health and Mental Retardation shall collect and destroy conviction information that relates to a person immediately after the department or a contractor makes an employment decision or takes any personnel action relating to the person who is the subject of the criminal history record information.

Sec. 411.116. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ORGANIZATION PROVIDING CERTAIN NURSE AIDES. (a) In this section:



(1) "Facility" has the meaning assigned by Section 106.001, Human Resources Code.

(2) "Nurse aide" has the meaning assigned by Chapter 106, Human Resources Code.

(3) "Organization that provides temporary nurse aides" includes a temporary employment service, nursing pool, private duty nurse service, or sitter service.

(b) An organization that provides temporary nurse aides to a facility is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a nurse aide; and

(2) a candidate for referral by the organization to a facility.

Sec. 411.117. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS REHABILITATION COMMISSION. The Texas Rehabilitation Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for rehabilitation services of the Texas Rehabilitation Commission; or

(2) a client of the Texas Rehabilitation Commission.

Sec. 411.118. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: EMPLOYER AT SUBSIDIZED HOUSING RESIDENCE.

(a) In this section, "employer," "employee," "occupant," and "subsidized housing residence" have the meanings assigned by Section 135.001, Human Resources Code.

(b) An employer is entitled to obtain from the department criminal history record information maintained by the department that pertains to a person who:

(1) is an applicant for a position of employment in a subsidized housing residence to whom an offer of employment is made; and

(2) may be reasonably required to have access to the residence of an occupant who is elderly or disabled.

(c) An employer is entitled to obtain only criminal history record information that relates to:

(1) an offense classified as:

(A) an offense against the person or the family;

(B) an offense against property; or

(C) public indecency; or

(2) a felony violation of a statute intended to control the possession or distribution of a substance regulated under Chapter 481, Health and Safety Code, or Section 485.033, Health and Safety Code.

(d) Criminal history record information obtained under Subsection (b) may not be released or disclosed to any person except on court order or with the written consent of the person who is the subject of the criminal history record information.

Sec. 411.119. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS BOARD OF PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES. The Texas Board of Private Investigators and Private Security Agencies is entitled to obtain from the

department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license, registration, or security officer commission under the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes); or

(2) an applicant for a position regulated under that Act.

Sec. 411.120. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY JUDGE; CERTAIN APPLICANTS. (a) The county judge of a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a wine and beer retailer's permit under Chapter 25, Alcoholic Beverage Code; or

(2) an applicant for a retail dealer's on-premise license under Chapter 69 of that code.

(b) Criminal history record information obtained by a county judge under Subsection (a) may not be released or disclosed to any person except in a hearing held under Chapter 25 or 69, Alcoholic Beverage Code.

Sec. 411.121. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: ADJUTANT GENERAL. (a) In this section:

(1) "Adjutant general" has the meaning assigned by Section 431.022.

(2) "State military forces" has the meaning assigned by Section 431.001.

(b) The adjutant general is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) a member of the state military forces;

(2) an employee of the adjutant general's department;

(3) an applicant for enlistment in the state military forces; or

(4) an applicant for employment with the adjutant general's department.

(c) The adjutant general is entitled to criminal history record information under Subsection (b)(3) or (b)(4) only if the adjutant general submits to the department a signed statement from the applicant that authorizes the adjutant general to obtain the information.

(d) Criminal history record information obtained by the adjutant general under Subsection (b) may not be released to any person or agency except on court order or with the consent of the person who is the subject of the criminal history record information.

(e) The adjutant general shall destroy criminal history record information obtained under Subsection (b) after the purpose for which the information was obtained is accomplished.

Sec. 411.122. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: LICENSING OR REGULATORY AGENCY. (a) Except as provided by Subsection (c)(2), an agency of this state or a political subdivision of this state covered by Article 6252-13c, Revised Statutes, that licenses or regulates members of a particular trade, occupation, business, vocation, or profession is entitled to obtain from the department

criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a license from the agency; or

(2) the holder of a license from the agency.

(b) Under this section, an agency is entitled to obtain only criminal history record information that relates to the conviction of the person.

(c) This section does not apply to an agency that is:

(1) specifically authorized by this subchapter to obtain criminal history record information from the department; or

(2) covered by Section 2, Article 6252-13c, Revised Statutes.

Sec. 411.123. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: MUNICIPAL FIRE DEPARTMENT. (a) A fire department that is operated by a municipality in this state is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an applicant for a beginning position with the fire department;

and

(2) required to be certified by the Texas Commission on Fire Protection.

(b) A fire department is entitled to obtain only criminal history record information that relates to the conviction of the person.

Sec. 411.1235. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER FIRE DEPARTMENTS. (a) A volunteer fire department or a fire department operated by a rural fire prevention district is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is required to be certified by the Texas Commission on Fire Protection and:

(1) is an applicant for a beginning position with the fire department; or

(2) currently holds a position with that fire department.

(b) A fire department is entitled to obtain only criminal history record information that relates to the conviction of the person.

(c) A fire department may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

Sec. 411.124. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: POLITICAL SUBDIVISIONS: PUBLIC TRANSPORTATION DRIVERS. (a) A political subdivision of this state that employs, licenses, or regulates drivers of public transportation vehicles is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) the driver of a public transportation vehicle; and

(2) employed, licensed, or regulated by the political subdivision.

(b) A municipality is entitled to obtain only criminal history record information that relates to a conviction of the person.

Sec. 411.125. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: BOARD OF NURSE EXAMINERS. (a) The Board of Nurse Examiners is entitled to obtain from the department criminal history

record information maintained by the department that relates to a person who:

(1) is an applicant for a license from the board;

(2) has requested a determination of eligibility for a license from the board; or

(3) is subject to investigation by the board in connection with a complaint or formal charge against the person.

(b) The board is entitled to obtain only criminal history record information that relates to a conviction of the person for an offense that:

(1) is classified as a felony;

(2) is classified as a misdemeanor involving moral turpitude;

(3) is an offense involving the abuse of a drug, including alcohol;

or

(4) resulted in the revocation of probation imposed following a conviction of an offense specified in Subdivision (1), (2), or (3).

Sec. 411.126. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: VOLUNTEER CENTER OF DALLAS COUNTY. (a) In this section:

(1) "Volunteer center" means a nonprofit, tax-exempt organization:

(A) whose primary purpose is to recruit and refer individual volunteers for other nonprofit groups in that area;

(B) that is certified as a bona fide volunteer center by the department; and

(C) that is operating on the effective date of this Act as "Volunteer Center of Dallas County."

(2) "Volunteer" or "volunteer applicant" means a person who will perform one or more of the following services without remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person; or

(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated.

(3) "Employee" or "employee applicant" means a person who will perform one or more of the following services or functions for remuneration:

(A) any service performed in a residence;

(B) any service that requires the access to or the handling of money or confidential or privileged information; or

(C) any service that involves the care of or access to:

(i) a child;

(ii) an elderly person;

(iii) a person who is mentally incompetent, mentally retarded, physically disabled, ill, or incapacitated;

(D) coordination or referral of volunteers; or

(E) executive administrative responsibilities.

(4) "Client agency" means a nonprofit agency served by a volunteer center.

(b) A volunteer center is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is:

(1) an employee, an employee applicant, a volunteer, or a volunteer applicant of the volunteer center; or

(2) an employee, an employee applicant, a volunteer, or a volunteer applicant of a client agency.

(c) A volunteer center is entitled to obtain from the department only criminal history record information that relates to a conviction.

(d) The department may establish rules governing the administration of this section.

(e) A volunteer center may disseminate criminal history record information to a client agency, if the client agency has been approved by the department.

(f) A volunteer center or client agency may not keep or retain criminal history record information obtained under this section in any file. Criminal history record information must be destroyed promptly after the determination of suitability of the person for any position as a volunteer or employee.

SECTION 36. Subsection (j-3), Section 10, Article 42.12, Code of Criminal Procedure, as added by Chapter 1135, Acts of the 71st Legislature, Regular Session, 1989, is amended to read as follows:

(j-3) The judges of the county courts at law in Hidalgo County shall participate in the management of the probation department serving the county, and for that purpose have the same duties and powers imposed by this section as do the district judges trying criminal cases in the county. [The probation department may obtain criminal history record information (CHRI) relating to an applicant for employment with the department that is maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or any other law enforcement agency. The information obtained under this subsection is for the exclusive use of the department and is privileged and confidential. The information may not be released or otherwise disclosed except on court order or consent of the applicant.]

SECTION 37. Article 60.01, Code of Criminal Procedure, is amended by adding Subdivision (16) to read as follows:

(16) "Electronic means" means the transmission of data between word processors, data processors, or similar automated information equipment over dedicated cables, commercial lines, or other similar methods of transmission.

SECTION 38. Chapter 60, Code of Criminal Procedure, is amended by adding Article 60.061 to read as follows:

Art. 60.061. INFORMATION ON PERSONS LICENSED BY CERTAIN AGENCIES. (a) The Texas State Board of Medical Examiners, the Texas State Board of Podiatry Examiners, the State Board of Dental Examiners, the State Board of Pharmacy, and the State Board of Veterinary Medical Examiners shall provide to the Department of Public Safety

through electronic means, magnetic tape, or disk, as specified by the department, a list including the name, date of birth, and any other personal descriptive information required by the department for each person licensed by the respective agency. Each agency shall update this information and submit to the Department of Public Safety the updated information monthly.

(b) The Department of Public Safety shall perform at least monthly a computer match of the licensing list against the convictions maintained in the computerized criminal history system. The Department of Public Safety shall report to the appropriate licensing agency for verification and administrative action, as considered appropriate by the licensing agency, the name of any person found to have a record of conviction, except a defendant whose prosecution is deferred during a period of probation without an adjudication or plea of guilt.

(c) The transmission of information by electronic means under Subsection (a) of this article does not affect whether the information is subject to disclosure under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

SECTION 39. Article 60.07, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) Subject to available telecommunications capacity, the Department of Public Safety shall develop the capability to receive by electronic means from a law enforcement agency the information on the uniform incident fingerprint card. The information must be in a form that is compatible to the form required of data supplied to the criminal justice information system.

SECTION 40. Subsection (a), Article 60.12, Code of Criminal Procedure, is amended to read as follows:

(a) The Department of Public Safety shall, when a jurisdiction transmits fingerprints and arrest information by a remote terminal accessing the statewide automated fingerprint identification system, use that transmission either to create a permanent record in the criminal justice information system or to create a temporary arrest record in the criminal justice information system to be maintained by the department until the department receives and processes the physical copy of the arrest information.

SECTION 41. Chapter 60, Code of Criminal Procedure, is amended by adding Article 60.18 to read as follows:

Art. 60.18. INFORMATION ON SUBSEQUENT ARREST OF CERTAIN INDIVIDUALS. The Texas Department of Criminal Justice and the Department of Public Safety shall develop the capability to send to a community supervision and corrections department, district parole office, and county data processing department by electronic means information about the subsequent arrest of a person under the supervision of the office or department.

SECTION 42. Chapter 411, Government Code, is amended by adding Section 411.127 to read as follows:

Sec. 411.127. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT. (a) The attorney general is entitled to obtain from the Department of Public Safety criminal history record information maintained by the department that relates to a person who is an applicant for a position of employment with the attorney general that involves the performance of duties under Chapter 76, Human Resources Code. The attorney general may not request the information unless a supervisory employee of the attorney general's office has recommended that the applicant be hired.

(b) Criminal history record information obtained by the attorney general under Subsection (a) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(c) The attorney general shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

SECTION 43. The Department of Public Safety shall develop the capability to receive or send the information by the means required by Articles 60.061, 60.07(c), and 60.18, Code of Criminal Procedure, as added by this Act, not later than January 1, 1995.

SECTION 44. The Department of Public Safety's responsibility for review under Article 13, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), is limited to one definable activity during the first two years the provision applies to the department.

SECTION 45. The Department of Public Safety shall forward the results of the study required in Section 411.0076, Government Code, as added by this Act, to the Commission on Human Rights for review and comment.

SECTION 46. The following laws are repealed:

- (1) Section 13.0322, Education Code (Central Education Agency);
- (2) Subsection (b), Section 5.36, Alcoholic Beverage Code (Texas Alcoholic Beverage Commission);
- (3) Section 13e, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes) (Texas Alcoholic Beverage Commission);
- (4) Subsections (a), (c), (d), and (e), Section 9, Article 350, Revised Statutes (banking commissioner);
- (5) Section 12, Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes) (commissioner of licensing and regulation);
- (6) Subsections (b) and (d), Section 51.215, Education Code (institutions of higher education);
- (7) Section 17A, Texas Pawnshop Act (Article 5069-51.17A, Vernon's Texas Civil Statutes) (consumer credit commissioner);
- (8) Subsections (b) and (c), Section 5.04, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) (Texas Racing Commission);
- (9) Subsections (b), (c), and (f), Section 21.917, Education Code (school districts);
- (10) Section 11.064, Education Code (Texas School for the Blind and Visually Impaired);

- (11) Section 82.029, Government Code (Board of Law Examiners);
- (12) Subsection (d), Section 6, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes) (Texas Structural Pest Control Board);
- (13) Section 80.002, Human Resources Code (McGruff House programs);
- (14) Section 80.004, Human Resources Code (child watch programs);
- (15) Subsections (b), (c), (e), (g), (h), and (i), Section 11-E, Texas Unemployment Compensation Act (Article 5221b-9e, Vernon's Texas Civil Statutes) (Texas Employment Commission);
- (16) Subsection (a), Section 21B, Public Accountancy Act of 1991 (Article 41a-1, Vernon's Texas Civil Statutes) (Texas State Board of Public Accountancy);
- (17) Sections (a), (b), (c), (d), (f), (g), and (h), Article 1.10C, Insurance Code (Texas Department of Insurance);
- (18) Subsection (i), Section 4, Article 21.28, Insurance Code (receiver);
- (19) Subsections (f), (h), (i), (o), and (p), Section 3.06, State Lottery Act (Article 179g, Vernon's Texas Civil Statutes) (comptroller of public accounts);
- (20) Subsections (a), (c), (d), (e), and (f), Section 154.5095, Tax Code (treasurer);
- (21) Subsections (a), (c), (d), (e), and (f), Section 155.2075, Tax Code (treasurer);
- (22) Subsections (a), (b), (c), (d), (f), (g), (h), and (i), Section 773.070, Health and Safety Code (Texas Department of Health);
- (23) Subsection (c), Section 32.21, Family Code (state district courts);
- (24) Subsections (a), (c), (d), (e), (f), (g), and (h), Section 11.033, Education Code (Texas School for the Deaf);
- (25) Subsections (a), (c), (d), (e), (f), (g), (h), and (i), Section 22.006, Sections 106.003, 106.009, and 106.010, and Subsection (b), Section 106.012, Human Resources Code (Texas Department of Human Services);
- (26) Subsections (a), (b), (c), (e), (f), (g), and (h), Section 533.007, Health and Safety Code (Texas Department of Mental Health and Mental Retardation, community centers);
- (27) Section 111.058, Human Resources Code (Texas Rehabilitation Commission);
- (28) Sections 135.003, 135.004, and 135.005, Human Resources Code (subsidized housing residences);
- (29) Section 431.037, Government Code (adjutant general);
- (30) Section 3, Article 6252-13c, Revised Statutes (licensing and regulatory agencies);
- (31) Subsection (j), Article 4525, Revised Statutes (Board of Nurse Examiners); and
- (32) Section 51.305, Government Code.



SECTION 47. (a) This Act takes effect September 1, 1993.

(b) The changes in law made by this Act to the qualifications of members of the Public Safety Commission apply only to persons appointed to the commission on or after September 1, 1993.

(c) The changes in law made by this Act relating to the reinstatement of a driver's license apply only to a driver's license that is reinstated on or after September 1, 1993.

(d) The changes in law made by Sections 25 and 29 of this Act relating to the suspension of the driver's license of a person younger than 21 years of age apply only to a person who is arrested on or after the effective date of this Act. A person arrested before the effective date of this Act is covered by the law in effect when the arrest occurred, and the former law is continued in effect for that purpose.

SECTION 48. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The conference committee report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 997**

Senator Montford submitted the following Conference Committee Report:

Austin, Texas  
May 20, 1993

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on H.B. 997 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

MONTFORD

MADLA

TRUAN

ROSSON

LUCIO

On the part of the Senate

OLIVEIRA

NIETO

LEWIS

TURNER

YOST

On the part of the House

The conference committee report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 259**

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 22, 1993

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.B. 259** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST  
ELLIS  
LUNA  
ROSSON  
SHAPIRO

GIDDINGS  
MARCHANT  
McCOULSKEY  
PATTERSON

On the part of the Senate

On the part of the House

The conference committee report was filed with the Secretary of the Senate.

**CONGRATULATORY RESOLUTIONS**

**H.C.R. 142** - (Moncrief): Honoring Van Cliburn for his outstanding musical career and for the contributions he has made to music education.

**S.R. 1003** - By Leedom: Congratulating John and Giraline Langston of Dallas on the occasion of their 60th wedding anniversary.

**S.R. 1011** - By Nelson: Congratulating Marco Thornton on his accomplishments and on his selection as a finalist in the 27th Annual Teenage Citizenship Tribute by The Dallas Morning News.

**S.R. 1012** - By Nelson: Congratulating Michael Morgan McNally on his accomplishments and on his selection as a finalist in the 27th Annual Teenage Citizenship Tribute by The Dallas Morning News.

**S.R. 1013** - By Ellis: Congratulating Pei Wang on the occasion of his graduation from the Texas School for the Deaf.

**S.R. 1014** - By Ellis: Congratulating Joseph Huerell on the occasion of his graduation from the Texas School for the Deaf.

**S.R. 1015** - By Ellis: Congratulating Julie Campbell on the occasion of her graduation from the Texas School for the Deaf.

**S.R. 1016** - By Ellis: Commending Jeffrey T. Jackson for his contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1017** - By Ellis: Commending Ingrid M. Williams for her contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1018** - By Ellis: Commending Patricia Montemayor for her contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1019** - By Ellis: Commending Broderick F. Butler for his contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1020** - By Ellis: Commending Thien Huong Tran for her contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1021** - By Ellis: Commending Patricia Garza for her contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1022** - By Ellis: Commending Gwendolyn McAfee for her contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1023** - By Ellis: Commending Abel Garza for his contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1024** - By Ellis: Commending Gwendolyn Thompson for her contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1025** - By Ellis: Commending Lam Luu for his contributions to the Texas Legislature during the 73rd Legislative Session.

**S.R. 1027** - By Shapiro: Commending the members of the Plano Memorial Day Committee and the other volunteers who have contributed their time to ensure the success of this community event.

**S.R. 1028** - By Shapiro: Commemorating a day of tribute in Marble Falls to the memory of Ophelia "Birdie" and George Harwood.

#### ADJOURNMENT

On motion of Senator Truan, the Senate at 3:34 p.m. adjourned until 10:30 a.m. tomorrow.

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#### APPENDIX

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#### REPORTS OF STANDING COMMITTEES

The following committee reports were received by the Secretary of the Senate:

##### May 21, 1993

FINANCE — H.B. 2813, H.B. 2396, H.B. 2165, H.J.R. 112, H.B. 1608, H.B. 1158 (Amended), H.B. 1016 (Amended), H.B. 1718 (Amended), C.S.H.B. 2711, C.S.H.B. 1892, C.S.H.B. 2223, C.S.H.B. 2716

##### May 22, 1993

STATE AFFAIRS — S.B. 1389, H.B. 1932, H.B. 2410, H.B. 2644, H.B. 2088, H.B. 1858, H.B. 1844, H.B. 1815, H.B. 1642, H.B. 2243, H.B. 391 (Amended), H.B. 1978 (Amended), H.B. 2555 (Amended)

## SUBCOMMITTEE ON ELECTIONS AND ETHICS — C.S.H.B. 75

## FINANCE — C.S.H.B. 1538

ECONOMIC DEVELOPMENT — C.S.H.B. 1461, C.S.H.B. 466,  
C.S.H.B. 958, C.S.H.B. 1540, C.S.H.B. 2662

FINANCE — H.B. 1873 (Amended), H.B. 2115 (Amended), H.B. 1719  
(Amended), H.B. 737

## SENT TO GOVERNOR

(May 22, 1993)

S.C.R. 62	S.B. 477
S.C.R. 81	S.B. 485
S.B. 87	S.B. 561
S.B. 184	S.B. 640
S.B. 301	S.B. 701
S.B. 323	S.B. 706
S.B. 335	S.B. 857
S.B. 387	S.B. 877
S.B. 398	S.B. 936
S.B. 403	S.B. 953
S.B. 418	S.B. 1379

## SEVENTY-FOURTH DAY

(Sunday, May 23, 1993)

The Senate met at 10:30 a.m. pursuant to adjournment and was called to order by Senator Ellis.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Turner.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Heavenly Father, on this Sabbath we pray and ask that You hear our petition for a day that brings satisfaction with ourselves. Give to each of us a sense of genuine worth and increase our usefulness in the world around us. We know that God governs in the affairs of men and women and ask that You give to these assembled the knowledge and determination to work through the difficult but solveable issues requiring answers in the remaining hours of this session. Amen.